



City of Tigard
Tigard Business Meeting – Agenda

TIGARD CITY COUNCIL & CITY CENTER DEVELOPMENT AGENCY - Agenda Revised October 26, 2016 - Agenda Item #5 to include two additional attachments - Agenda Revised October 31, 2016 - Executive Session citation updated

MEETING DATE AND TIME: November 1, 2016 - 6:30 p.m. Study Session; 7:30 p.m. Business Meeting

MEETING LOCATION: City of Tigard - Town Hall - 13125 SW Hall Blvd., Tigard, OR 97223

PUBLIC NOTICE:

Anyone wishing to speak on an agenda item should sign on the appropriate sign-up sheet(s). If no sheet is available, ask to be recognized by the Mayor at the beginning of that agenda item. Citizen Communication items are asked to be two minutes or less. Longer matters can be set for a future Agenda by contacting either the Mayor or the City Manager.

Times noted are *estimated*; it is recommended that persons interested in testifying be present by 7:15 p.m. to sign in on the testimony sign-in sheet. *Business agenda items can be heard in any order after 7:30 p.m.*

Assistive Listening Devices are available for persons with impaired hearing and should be scheduled for Council meetings by noon on the Monday prior to the Council meeting. Please call 503-718-2419, (voice) or 503-684-2772 (TDD - Telecommunications Devices for the Deaf).

Upon request, the City will also endeavor to arrange for the following services:

- Qualified sign language interpreters for persons with speech or hearing impairments; and
- Qualified bilingual interpreters.

Since these services must be scheduled with outside service providers, it is important to allow as much lead time as possible. Please notify the City of your need by 5:00 p.m. on the Thursday preceding the meeting by calling: 503-718-2410 (voice) or 503-684-2772 (TDD - Telecommunications Devices for the Deaf).

SEE ATTACHED AGENDA

VIEW LIVE VIDEO STREAMING ONLINE:

<http://live.tigard-or.gov>

CABLE VIEWERS: The regular City Council meeting is shown live on Channel 28 at 7:30 p.m. The meeting will be rebroadcast at the following times on Channel 28:

Thursday	6:00 p.m.	Sunday	11:00 a.m.
Friday	10:00 p.m.	Monday	6:00 a.m.



City of Tigard

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6:30 PM

- STUDY SESSION

- A. COUNCIL LIAISON REPORTS **6:30 p.m. estimated time**

- EXECUTIVE SESSION: The Tigard City Council will go into Executive Session to consider records that are exempt by law from public inspection, under ORS 192.660(2)(f). All discussions are confidential and those present may disclose nothing from the Session. Representatives of the news media are allowed to attend Executive Sessions, as provided by ORS 192.660(4), but must not disclose any information discussed. No Executive Session may be held for the purpose of taking any final action or making any final decision. **6:45 p.m. estimated time**

7:30 PM

- 1. BUSINESS MEETING

- A. Call to Order
- B. Roll Call
- C. Pledge of Allegiance
- D. Call to Council and Staff for Non-Agenda Items

- 2. CITIZEN COMMUNICATION (Two Minutes or Less, Please)

- A. Follow-up to Previous Citizen Communication
- B. Citizen Communication – Sign Up Sheet

- 3. CONSENT AGENDA: (Tigard City Council and City Center Development Agency) These items are considered routine and may be enacted in one motion without separate discussion. Anyone may request that an item be removed by motion for discussion and separate action. Motion to:

A. RECEIVE AND FILE:

1. Council Calendar
2. Council Tentative Agenda for Future Meeting Topics

B. APPROVE CITY COUNCIL MINUTES:

- September 20, 2016
- September 27, 2016

C. APPROVE CITY CENTER DEVELOPMENT AGENCY MINUTES:

- * September 6, 2016 CCDA Meeting
- * October 4, 2016 CCDA Meeting

• Consent Agenda - Items Removed for Separate Discussion: Any items requested to be removed from the Consent Agenda for separate discussion will be considered immediately after the Council/ City Center Development Agency has voted on those items which do not need discussion.

4. CONSIDER MARIJUANA FACILITIES ORDINANCE **7:35 p.m. estimated time**
5. LEGISLATIVE PUBLIC HEARING ON 2016 OMNIBUS CODE AMENDMENT PACKAGE **7:45 p.m. estimated time**
6. PRESENT POLICY AND IMPLEMENTATION RELATING TO TRANSIENT LODGING **8:45 p.m. estimated time**
7. RECEIVE UPDATE ON WILLAMETTE WATER SUPPLY PROJECT INTAKE STRUCTURE ALLOCATION **9:15 p.m. estimated time**
8. CONSIDER RESOLUTION CONCURRING WITH WASHINGTON COUNTY FINDINGS REGARDING VACATION OF A PUBLIC SLOPE AND DRAINAGE EASEMENTS IN RIVER TERRACE **9:45 p.m. estimated time**
9. NON AGENDA ITEMS
10. EXECUTIVE SESSION: The Tigard City Council may go into Executive Session. If an Executive Session is called to order, the appropriate ORS citation will be announced identifying the applicable statute. All discussions are confidential and those present may disclose nothing from the Session. Representatives of the news media are allowed to attend Executive Sessions, as provided by ORS 192.660(4), but must not disclose any information discussed. No Executive Session may be held for the purpose of taking any final action or making any final decision. Executive Sessions are closed to the public.
11. ADJOURNMENT **9:55 p.m. estimated time**

AIS-2815

A.

Business Meeting

Meeting Date: 11/01/2016

Length (in minutes): 15 Minutes

Agenda Title: Council Liaison Reports

Submitted By: Kelly Burgoyne, Central Services

Item Type: Update, Discussion, Direct Staff

Meeting Type: Council
Business
Mtg - Study
Sess.

Public Hearing: No

Publication Date:

Information

ISSUE

Council will present liaison reports.

STAFF RECOMMENDATION / ACTION REQUEST

N/A

KEY FACTS AND INFORMATION SUMMARY

N/A

OTHER ALTERNATIVES

N/A

COUNCIL GOALS, POLICIES, APPROVED MASTER PLANS

N/A

DATES OF PREVIOUS COUNCIL CONSIDERATION

N/A

Attachments

No file(s) attached.

AIS-2890

3. A.

Business Meeting

Meeting Date: 11/01/2016

Length (in minutes): Consent Item

Agenda Title: RECEIVE AND FILE: THREE-MONTH COUNCIL CALENDAR
AND TENTATIVE AGENDA

Submitted By: Kelly Burgoyne, Central Services

Item Type: Receive and File

Meeting Type: Consent -
Receive and
File

Public Hearing: No

Publication Date:

Information

ISSUE

Receive and file the Council Calendar and the Tentative Agenda for future council meetings.

STAFF RECOMMENDATION / ACTION REQUEST

No action is requested; these are for information purposes.

KEY FACTS AND INFORMATION SUMMARY

Attached are the Council Calendar and the Tentative agenda for future Council meetings.

OTHER ALTERNATIVES

N/A

COUNCIL GOALS, POLICIES, APPROVED MASTER PLANS

N/A

DATES OF PREVIOUS COUNCIL CONSIDERATION

N/A - Receive and File Items

Attachments

Council Calendar

Tentative Agenda



MEMORANDUM

TO: Honorable Mayor & City Council

FROM: Kelly Burgoyne, Deputy City Recorder

RE: Three-Month Council/CCDA Meeting Calendar

DATE: November 1, 2016

November

1	Tuesday	CCDA & Council Business Meeting – 6:30 p.m., Town Hall
8*	Tuesday	Council Business Meeting – CANCELLED
15*	Tuesday	Council Workshop Meeting – 6:30 p.m., Town Hall
22*	Tuesday	Council Business Meeting – 6:30 p.m., Town Hall
29	Tuesday	City Council Ground Rules Meeting – 4:00-7:00 p.m., Fanno Creek House









December

6	Tuesday	CCDA Meeting – 6:30 pm, Town Hall
13*	Tuesday	Council Business Meeting – 6:30 p.m., Town Hall
15	Thursday	City Council Goal Setting Meeting – 4:00-7:00 p.m., Location TBD
20*	Tuesday	Council Workshop Meeting – 6:30 p.m., Town Hall
27*	Tuesday	Council Business Meeting – CANCELLED

January

3	Tuesday	CCDA Meeting – 6:30 pm, Town Hall
10*	Tuesday	Council Business Meeting – 6:30 p.m., Town Hall
17	Tuesday	Council Workshop Meeting – 6:30 p.m., Town Hall
24*	Tuesday	Council Business Meeting – 6:30 p.m., Town Hall
31	Tuesday	City Council Outreach – 6:30 p.m.-8:30 p.m. – TBD

Regularly scheduled Council meetings are marked with an asterisk (*).

Meeting Banner  Business Meeting 
 Study Session  Special Meeting 
 Consent Agenda  Meeting is Full 
 Workshop Meeting  CCDA Meeting 

City Council Tentative Agenda
10/24/2016 1:23 PM - Updated

For m #	Meeting Date	Submitted By	Meeting Type	-----Title----- --	Department	Inbox or Finalized
2637	11/01/2016	Carol Krager	AAA	November 1, 2016 CCDA Meeting –CCDA – COMBO Meeting (Business Meeting to start @ 7:00 p.m.)	Central Services	03/21/2016
2815	11/01/2016	Kelly Burgoyne	ACCSTUDY	15 Minutes – Council Liaison Reports (starts @ 6:30 p.m.)	Central Services	08/25/2016
2827	11/01/2016	John Goodrich	ACCSTUDY	20 Minutes - Executive Session: Per ORS 192.660(2)(e) Real Property Transaction Negotiations for Willamette River Water	Public Works	Krager C, City Recorder
Total Time: 35 of 45 Minutes Scheduled						
2878	11/01/2016	Kelly Burgoyne	CCDA	5 Minutes - Approve City Center Development Agency Minutes	Central Services	10/18/2016
2883	11/01/2016	Agnes Kowacz	CCBSNS	1 10 Minutes – Marijuana Facilities Ordinance	Community Development	Asher K, Community Development Dir.
2810	11/01/2016	Sean Farrelly	CCBSNS	2 60 Minutes - Council Public Hearing On Development Code Amendments	Community Development	Laughlin D, Conf. Exec. Asst.
2814	11/01/2016	Kelly Burgoyne	CCBSNS	3 30 Minutes – Present Policy and Implementation Relating to Transient Lodging Tax	Finance and Information Services	Krager C, City Recorder
2851	11/01/2016	John Goodrich	CCBSNS	4 30 Minutes – Willamette Water Supply Project Intake Structure	Public Works	10/19/2016
2877	11/01/2016	Shauna Large	CCBSNS	5 10 Minutes - Resolution Concurring with Washington County Findings Regarding Vacation of a Public Slope and Draining Easements in River Terrace	Public Works	Newton L, Assistant City Manager
				Total Time: 145 of 180 Minutes Scheduled		

Meeting Banner ☐ Business Meeting ☐
 Study Session ☐ Special Meeting ☐
 Consent Agenda ☐ Meeting is Full ☐
 Workshop Meeting ☐ CCDA Meeting ☐









City Council Tentative Agenda
10/24/2016 1:23 PM - Updated

2638	11/08/2016	Carol Krager	AAA	November 8, 2016 Business Meeting – CANCELLED	Central Services	04/15/2016
2639	11/15/2016	Carol Krager	AAA	November 15, 2016 Workshop Meeting Mayor Cook Absent – (11/15-11/18 Transportation Conference), Councilor Goodhouse (11/15-11/20 NLC Conference)	Central Services	03/21/2016
2792	11/15/2016	Steve Martin	CCWKSHOP	1 45 Minutes – Joint Meeting with the Park and Recreation Advisory Board	Public Works	Martin S, Division Manager
2813	11/15/2016	Kelly Burgoyne	CCWKSHOP	2 30 Minutes - Discuss Non-Residential Tigard Transportation SDC	Finance and Info Services	LaFrance T, Fin/Info Svcs Director
2704	11/15/2016	Tom McGuire	CCWKSHOP	3 15 Minutes - Update on Legislative Projects and Tentative Timeline	Community Development	McGuire T, Asst CD Director
Total Time: 90 of 180 Minutes Scheduled						
2640	11/22/2016	Carol Krager	AAA	November 22, 2016 Business Meeting – (City Council to Tape Holiday Greeting prior to Business Meeting)	Central Services	03/21/2016
2688	11/22/2016	Carol Krager	ACCSTUDY	15 Minutes - Council Liaison Reports	Central Services	04/15/2016
2868	11/22/2016	Tom McGuire	ACCSTUDY	30 Minutes - Council requested training on land use and quasi-judicial decisions.	Community Development	Newton L, Assistant City Manager
Total Time: 45 of 45 Minutes Scheduled – Meeting Full						
2845	11/22/2016	Joanne Bengtson	ACONSENT	Consent Item – Proclaim November 26 as Small Business Saturday	Central Services	09/28/2016
2834	11/22/2016	Kent Wyatt	CCBSNS	1 30 Minutes – Continue Discussion on the Council Goal to Provide Recreational Opportunities for Tigard Residents	City Management	Wyatt K, Management Analyst

Meeting Banner Business Meeting
 Study Session Special Meeting
 Consent Agenda Meeting is Full
 Workshop Meeting CCDA Meeting








City Council Tentative Agenda
10/24/2016 1:23 PM - Updated

2804	11/22/2016	Kelly Burgoyne	CCBSNS	2 20 Minutes - LCRB Placeholder	Community Development	Barrett J, Sr Mgmt Analyst
2863	11/22/2016	Kent Wyatt	CCBSNS	3 30 Minutes - Continue the Discussion of Defining the City's Role in Homelessness	City Management	Wyatt K, Management Analyst
2876	11/22/2016	Carol Krager	CCBSNS	4 20 Minutes - Utility Billing Payment Plan	Finance and Information Services	Blecker Ron, Util. Div. Supervisor
2849	11/22/2016	Lloyd Purdy	CCBSNS	5 10 Minutes - Executive Session per ORS 192.510(6) Property Negotiation	Community Development	10/11/2016
Total Time: 110 of 100 Minutes Scheduled - MEETING OVERSCHEDULED						
				November 29, 2016 - City Council Ground Rules Meeting - Location: Fanno Creek House (4-7 pm)		
2641	12/06/2016	Carol Krager	AAA	December 6, 2016 Council Meeting (was CCDA, changed to Business Meeting)	Central Services	03/21/2016
2555	12/06/2016	Lloyd Purdy	CCBSNS	1 15 Minutes - Second Review: Development Agreement Hunziker Infrastructure (Hold for Scheduling)	Community Development	Purdy L, Econ Development Mgr
2856	12/06/2016	Kelly Burgoyne	CCBSNS	2 45 Minutes - Executive Session: Per ORS 192.660(2)(i) Employment Related Performance of the Chief Executive Officer - Placeholder	City Management	Bennett, D, HR Director
2886	12/06/2016	Steve Martin	CCBSNS	3 10 Minutes - An Amendment to the Metro IGA for Westside Trail Easements	Public Works	Krager C, City Recorder
2887	12/06/2016	Kent Wyatt	CCBSNS	20 Minutes - Update from CFM on the City of Tigard's Federal Legislative Activities	City Management	Krager C, City Recorder
Total Time: 90 Minutes of 180 Minutes Scheduled						

Meeting Banner  Business Meeting 
Study Session  Special Meeting 
Consent Agenda  Meeting is Full 
Workshop Meeting  CCDA Meeting 









**City Council Tentative Agenda
10/24/2016 1:23 PM - Updated**

2642	12/13/2016	Carol Krager	AAA	December 13, 2016 Business Meeting	Central Services	03/21/2016
2689	12/13/2016	Carol Krager	ACCSTUDY	15 Minutes - Council Liaison Reports	Central Services	04/15/2016
			Total Time: 15 of 45 Minutes (0 Hours, 15 Minutes)			
2835	12/13/2016	Liz Lutz	CCBSNS	1 5 Minutes – Appoint Budget Committee Members	Finance and Information Services	
2846	12/13/2016	Joe Patton	CCBSNS	2 5 Minutes – Appoint Tigard Transportation Advisory Committee Members	Community Development	Brown B, Assoc Transp Planner
2847	12/13/2016	Doreen Laughlin	CCBSNS	3 5 Minutes – Appoint Planning Commission Members	Community Development	Laughlin D, Conf Exec. Asst.
2848	12/13/2016	Joe Patton	CCBSNS	4 5 Minutes – Appoint City Center Advisory Commission Members	Community Development	Farrelly S, Redev Project Manager
2789	12/13/2016	Susan Shanks	CCBSNS	5 30 Minutes - Tigard Triangle Urban Renewal Plan	Community Development	Shanks S, Senior Planner
2805	12/13/2016	Kelly Burgoyne	CCBSNS	6 20 Minutes - LCRB Placeholder	Central Services	Barrett J, Sr Mgmt Analyst
2828	12/13/2016	John Goodrich	CCBSNS	7 15 Minutes - Willamette Water Supply Project Intake Structure Allocation	Public Works	Grass, M, Conf Exec Assistant
2860	12/13/2016	Sean Farrelly	CCBSNS	8 15 Minutes – Public Hearing for City Center Urban Renewal Plan Substantial Amendment	Community Development	Farrelly S, Redev Project Manager
			Total Time: 100 of 100 Minutes Scheduled – MEETING FULL			
				December 15, 2016 – City Council Goal Setting Meeting – Location: TBD (4-7 pm)		
2653	12/20/2016	Carol Krager	AAA	December 20, 2016 Workshop Meeting	Central Services	03/21/2016

Meeting Banner		Business Meeting	
Study Session		Special Meeting	
Consent Agenda		Meeting is Full	
Workshop Meeting		CCDA Meeting	

City Council Tentative Agenda
10/24/2016 1:23 PM - Updated

2861	12/20/2016	Sean Farrelly	CCWKSHOP	1 30 Minutes – CITY COUNCIL BUSINESS MEETING: Tigard Triangle Urban Renewal Plan – Adoption Hearing (if needed)	Community Development	Shanks S, Senior Planner
2862	12/20/2016	Hannah Holloway	CCWKSHOP	2 40 Minutes - Receive update on Tigard's Affordable Housing Programs	Community Development	Farrelly S, Redev Project Manager
2858	12/20/2016	Anna Dragovich	CCWKSHOP	3 30 Minutes – Safe Routes to School Update	Community Development	Dragovich A, Safe Routes Coord.
				Total Time: 100 Minutes of 180 Minutes Scheduled		
2645	12/27/2016	Carol Krager	AAA	December 27, 2016 Business Meeting - CANCELLED	Central Services	03/21/2016
2869	01/03/2017	Carol Krager	AAA	January 3, 2017 CCDA Meeting		
2871	01/10/2017	Carol Krager	AAA	January 10, 2017 Business Meeting		
2872	01/17/2017	Carol Krager	AAA	January 17, 2017 Workshop Meeting		
2873	01/24/2017	Carol Krager	AAA	January 24, 2017 Business Meeting		
2881	01/24/2017	Susan Shanks	ACCSTUDY	25 Minutes - Review Ballot Measure Title for Tigard Triangle Urban Renewal Plan	Community Development	Shanks S, Senior Planner
			Total Time: 25 Minutes			
2882	1/24/2017	Lloyd Purddy	CCBSNS	1 15 Minutes - Hunziker ROW Final Authorization	Community Development	Purdy L, Econ Development Mgr
2884	1/24/2017	Sean Farrelly	CCBSNS	2 10 Minutes - Review Ballot Measure Title for City Center Urban Renewal Plan Substantial Amendment	Community Development	Farrelly S, Redev Project Manager
			Total Time: 25 of 100 Minutes Scheduled			

Meeting Banner		Business Meeting	
Study Session		Special Meeting	
Consent Agenda		Meeting is Full	
Workshop Meeting		CCDA Meeting	

City Council Tentative Agenda 10/24/2016 1:23 PM - Updated

Council Confirmed Travel & Vacation Dates:

Mayor Cook:	Nov. 2-3, USCM Water Council Task Force
Mayor Cook:	Nov. 4-7, out of town
Councilor Woodard	Nov. 7-9, Conference
Mayor Cook:	Nov. 15-18, Transp. For America conf.
Councilor Goodhouse:	Nov. 15-20, NLC

AIS-2891

3. B.

Business Meeting

Meeting Date: 11/01/2016

Length (in minutes): Consent Item

Agenda Title: Approve City Council Meeting Minutes

Submitted By: Kelly Burgoyne, Central Services

Item Type: Motion Requested

Meeting Type: Consent
Agenda

Public Hearing: No

Publication Date:

Information

ISSUE

Approve City Council meeting minutes.

STAFF RECOMMENDATION / ACTION REQUEST

Approve minutes as submitted.

KEY FACTS AND INFORMATION SUMMARY

Attached council minutes are submitted for City Council approval:

- September 20, 2016
- September 27, 2016

OTHER ALTERNATIVES

N/A

COUNCIL GOALS, POLICIES, APPROVED MASTER PLANS

N/A

DATES OF PREVIOUS COUNCIL CONSIDERATION

N/A

Attachments

September 20, 2016 Minutes

September 27, 2016 Minutes



City of Tigard

Tigard Workshop Meeting Agenda September 20, 2016



1. WORKSHOP - 6:30 PM

- A. Mayor Cook called the meeting to order at 6:30 pm.
- B. Deputy City Recorder Burgoyne called the roll.

<u>Name</u>	<u>Present</u>	<u>Absent</u>
Mayor Cook	✓	
Councilor Goodhouse	✓	
Councilor Henderson	✓	
Council President Snider	✓	
Councilor Woodard	✓	

- C. Mayor Cook asked those attending to stand with him for the Pledge of Allegiance.
- D. Call to Council and Staff for Non Agenda Items – There was none.

2. DISCUSS ADOPTION PROCESS FOR SUBSTANTIAL AMENDMENT TO DOWNTOWN CITY CENTER URBAN RENEWAL PLAN

Members of the Planning Commission present included: President Calista Fitzgerald, Vice President Brian Feeney, Bret Lieuallen, Chris Middaugh, Don Schmidt, Gary Jelinek, Matthew Muldoon, Michael Enloe and Yi-Kang Hu.

Redevelopment Manager Farrelly discussed the City Center Development Agency's (CCDA) board meeting that was held in May where staff was instructed to explore a substantial amendment to the Downtown City Center Urban Renewal Plan; exploring ways to increase the plans maximum indebtedness to be more in line to what was originally projected in 2006. Mr. Farrelly explained that in order to increase the plan's maximum indebtedness to where it was originally, staff wanted to increase and expand the district area, allowing for additional tax increment revenue and increasing the size of the district. He said state law allowed for no more than a one percent increase of the original size, and that the proposed areas would increase the district by more than that and would require voter approval. He said they were looking to get this placed on the May 2017 election. Mr.

TIGARD CITY COUNCIL WORKSHOP MEETING MINUTES – September 20, 2016

Farrelly explained that staff had already briefed the City Center Advisory Committee on the substantial amendment. He referred to a map with the proposed expansions and explained that staff was proposing expanding the areas within A (George Moreland Business), B (Main Street Village Apartments) and E (Park 217 Office Park), which would bring the city more in line with the original twenty-two million dollars in maximum indebtedness. He explained that the process was very similar to that of the Tigard Triangle Project and they would be going before the Washington County Board of Commissioners on October 18, 2016, the Planning Commission on November 14, 2016 and then City Council on December 13, 2016 for adoption. Staff thought that going out for both urban renewal projects was the best method.

Mayor Cook asked how it would work logistically for the tax increment and when that started. Mr. Farrelly replied that it starts when the amendment is approved.

Planning Commissioners present asked where the money would be coming from. Mr. Farrelly explained how urban renewal worked and how and where the funds were attributed. He said it included street improvements, streetscape improvements, pedestrian and bike facilities, public facilities; such as parking, property acquisitions and development programs like; façade and improvement programs, explaining that new properties brought in would potentially be eligible to take part in these programs.

Planning Commissioner Lieualen asked where the funds originated. Mr. Farrelly explained that the way urban renewal works, is to freeze the property taxes at a particular point in time and that the increased amount of property taxes goes into an urban renewal fund called a Tax Increment Financing Fund, which is the fund that can be borrowed against. Council explained it was not increasing the property taxes of anyone and that it wouldn't be going to any other agencies. They said that money would stay within the Urban Renewal District.

Councilor Woodard read the statement under key facts and information. He said there was no guarantee the money would be used for those projects and that they are just examples of what the money could be used for.

Mr. Farrelly said that with the especially low interest rates currently available, it was a good time to borrow. He explained that the bonds are typically paid off within ten years.

The Planning Commission asked if it was worth going out for a longer period on the bond. Mayor Cook said there are time limits to how long they could have the bond, and that after the ten years there would be no money coming in to continue to pay on the bond if they extended it out past the ten years; it would be difficult to make payments if there is not cash sources associated with the bond, and that currently there is no cash associated beyond the ten years.

Councilor Henderson explained how much they could borrow and how that would be paid back within the given amount of time, and that they couldn't borrow any more money than what they could currently pay back.

Mayor Cook asked why staff had chosen sites A, B and E. He understood why they had chosen site E, but didn't see site B as a highly developable area. He asked if another site would be better. Mr.

TIGARD CITY COUNCIL WORKSHOP MEETING MINUTES – September 20, 2016

Farrelly explained they looked at size limitations, financial volume and redevelopment potential and that it is a balancing act. He explained that site B was currently doing some redevelopment and sites G and D aren't worth as much comparatively.

Planning Commissioner Lieualen asked how the three percent would be dispersed and which projects would be cut if they are short on funds. Mr. Farrelly explained that some of the bigger projects like the Performing Art Center, structured parking and the Ash Avenue extension could potentially not be funded through urban renewal funds; however, the SW Corridor project could possibly provide more funds, especially for structured parking.

Councilor Woodard said some facilities, like public facilities, don't generate tax revenue, and believes that sites C and F have potential.

Mr. Farrelly replied that while parking structures did not generate money, they did add value.

3. JOINT MEETIN WITH PLANNING COMMISSION: TIGARD TRIANGLE URBAN RENEWAL AND CODE/ZONING UPDATE

Senior Planner Shanks gave a presentation and introduced Urban Renewal Consultant Eileen Howard. Ms. Shanks said the Tigard Triangle Urban Renewal Plan has two components to it; one component was to develop an urban renewal plan which allowed a funding source, and the other component is the implementation project. She said staff was working with the Technical Advisory Committee and Citizen Advisory Committee and introduced the committee members who were present in the audience. Ms. Shanks then discussed all the components of the plan and how they shaped the plan

Ms. Shanks discussed the proposed urban renewal boundary and said it had been vetted by the City Center Advisory Commission (CCAC) and the Technical Advisory Committee (TAC), and includes the outside edges of the right-of-ways, which are essentially the freeways that bound the Tigard Triangle area. She said the freeways surrounding the area are Highway I-5, Highway 217 and Highway 99W, and that most of the commercial use properties were along Highway 99W. She said both committees felt the edge of 99W is the most porous edge, and the other freeway edges have limited access because they are elevated. She said 99W is also more visible from both sides of the street and has more points of access. Council President Snider asked if the city border is along the eastern edge. Ms. Shanks replied that it is, and said the other reason for including the properties north of 99W was to have the ability to fund projects that could increase safe access for new and future businesses and residents in the Triangle.

Urban Renewal Consultant Eileen Howard said the maximum indebtedness is the total amount of money that can be spent in an urban renewal area on projects, programs and administration, and that it does not include the interest paid on the debt. Ms. Howard said \$188 million dollars is the total maximum indebtedness for this area, which translates into \$94.5 million dollars in today's dollars. She explained they arrived at this amount by looking at an assumed growth rate for assessed value within the urban renewal area which is 4.5 percent. She said they compared these numbers to that of Lake Oswego and the State, and believe this to be an achievable number. She said they are only allowed to increase the amount by three percent, leaving the remaining 1.5 percent that has to

be for new development or substantial rehabilitation within the urban renewal area. She explained that to be able to fund the amount of projects they are currently looking at, they had to look at a thirty-five-year urban renewal plan. She said that unlike the Civic Center, this plan only has a limitation on the maximum indebtedness allowed, and that thirty-five years is what they believe will take to achieve that. She also explained what could happen if there is a recession or if their prediction is better and it takes less time, it could either extend or compress the thirty-five years.

Councilor Woodard asked if there is any jurisdictional concern. Ms. Shanks said that TVF& R is still working with them and talking about revenue sharing and they are working out the details.

Councilor Woodard asked if the \$94.5 million was a realistic amount. Ms. Howard explained how they got to that figure and that the amount was discussed with staff and they felt it was realistic, but that it is not guaranteed. Ms. Shanks explained they had looked at surrounding jurisdictions and that dollar amount isn't overly aggressive.

Mayor Cook asked how they determined the time frame. Ms. Shanks explained the difference between the plan duration choices, and how the assumed rate growth would be with the maximum indebtedness for each of those plan durations. She said Tigard has a lot of transportation needs and the community members felt that based on the project needs they wanted to see accomplished, they preferred the thirty-five-year plan, but that TVF&R and the Community Planning Organization (CPO4M) preferred a shorter duration. Council President Snider asked what was the preferred duration of time. Ms. Shanks replied that they preferred a twenty-five year plan duration, but would be comfortable with a thirty year duration.

Planning Commissioner Lieuallen asked what the motivation was and if the 4.5 percent assumed growth rate included light rail. Ms. Shanks said that with the recession now over there was land that was undeveloped and that developers were coming to staff with a desire to develop those areas. Ms. Shanks said they were not including light rail in that 4.5 percent figure.

Councilor Goodhouse said this was completely separate from light rail; that these are two separate entities, and was not being done to fund light rail.

Ms. Howard explained that schools and service districts are indirectly impacted; they do not receive their money directly from taxes that are collected in the community, but instead, receive their money from the State School Fund that is funded on a per pupil basis and there is no way of knowing if this amount would increase.

Ms. Shanks explained light rail would only affect the duration, not the funding. She explained the goals and objectives were the heart of the plan, that the development agency has authority to reallocate monies over projects, and the goals are the direction from the community. She said they had spent a lot of time defining the goals and explained they were very specific and that both groups contributed to the overall goals and objectives:

Goal 1 – Public involvement: public vote and having a citizen committee.

Goal 2 – Relates to transportation system and supports mixed-use. She discussed briefly related projects (Atlanta Street Extension, Red Rock Creek Trail, Hwy 217 Overpass).

Goal 3 – Public Utilities – improvements to support desired development; stormwater detention facilities, sewer repairs and extensions.

Goal 4 – Create a clear identity building on unique features, topography, parks & restrooms, gateway installation projects that give downtown a sense of place.

Goal 5 – Developing community to take advantage of redevelopment; street improvements, fee assistance, site preparation and façade loans. Urban Renewal helping to pay SDC fees.

Ms. Shanks continued to explain how they planned to address infrastructure and implement community vision and how they pulled from that to make a list that primarily consisted of stormwater and sewer projects. She discussed transportation issues in the Tigard Triangle, how they weighed impacts and city goals, the current state of areas and what they could do to improve those areas; she said it is very qualitative and not quantitative. Ms. Shanks said the City Center Advisory Commission (CCAC) and the Technical Advisory Committee (TAC) had spent time discussing the project list. She talked about funding allocations, producing a plan that is financially feasible and what projects would encapsulate development. She told council they would come back in two weeks with a drafted plan and when they anticipated this going to a public vote since the City Charter required of vote for this district.

Councilor Goodhouse explained this was an undeveloped area and could harm the district if they didn't take advantage of the growth now.

Planning Commissioner Lieuallen asked about the interest rate and what density they are looking at. Ms. Howard said the interest is not part of the total \$188 million and that one third of the Tigard Triangle is commercial and the other part is mixed use.

Ms. Shanks stated they would like to have this item vetted and ready for the May 2017 election.

Associate Planner Cheryl Caines discussed Part II, the Lean Code Project and how they were being developed and requirements that needed to be met. She said they were working with a consultant who was working with ODOT since the Tigard Triangle is surrounded by ODOT land. Ms. Caines explained a traffic analysis is required and that staff wanted to address any significant impacts. She discussed parking management and how it transitions in time in the Tigard Triangle and said they were looking at an efficient use of parking. She finished her presentation discussing the schedule and the code review which would be done by the city attorney.

4. DISCUSS THE CITY'S ROLE IN ADDRESSING HOMELESSNESS

Police Commander McDonald, Officer Orth and Officer Wakem introduced themselves, discussed the previous discussion before council and recognized the work done by Just Compassion. Police Commander McDonald discussed the city's role in affordable housing and homelessness in Tigard, what city resources were being devoted to homelessness and the city's proactiveness in addressing

homelessness. They discussed the actions council could take to address homelessness, current data for homelessness, Washington County Community Connect numbers and how the number of homeless veterans were decreasing. Police Commander McDonald highlighted what Tigard was currently doing for homelessness, talked about the legislative agenda for homelessness and how two Tigard police officers were positively interacting daily with the homeless community and a recent Tigard newspaper article published about the officers.

Officer Orth said they started on the north side of the city and went south, identified camps to see what they could do for the homeless, asked for consent from surrounding business owners, built relationships and provided the homeless with resources.

Officer Wakem discussed previous issues they had encountered and how they were trying to balance on duty assistance vs off duty assistance. She explained they started the outreach program as a safety measure and they were excited for the people the program has helped. Officer Wakem thanked the council for listening to them.

Council President Snider asked if there are things the city could do to support the officers that wouldn't cost the city a lot of money. Officer Orth said working with other city departments has been helpful to them. He said they are currently working with the library to set-up a social services hour that would offer resources to the homeless community, he said they were working on getting post office boxes setup at the Post Office in order for people without a physical address to have a mailing address. Officer Orth said the Senior Center agreed to allow homeless veteran's to use the Senior Center's mailing address on their documents so that they could receive mail. Council President Snider said these are things the council could help with and asked staff to explore it more. Management Analyst Wyatt said that they would.

Officer Orth explained they are barely able to maintain what they are currently doing, that there are a lot of people in transition and more people are living in their vehicles so any additional assistance is appreciated.

Mr. Wyatt said staff had recently visited the Tigard Street Trail, and while there was a lot of garbage left behind, there was currently no one camping along the trail. He said the most common complaints the city receive are about people camping in tents or sleeping in cars. Mr. Wyatt talked about other city resources such as the library; they are somewhat of an informal day center. He said that Just Compassion does frequent the library to let people know they are there to help and that they are open every Thursday. Mr. Wyatt talked about the round table conversations that occur between the city, Good Neighbor Center and Just Compassion where they discuss allocating funds for social services grants and in-kind staff support. He finished by talking about possible actions for council to consider:

- Look at social service grants. Mr. Wyatt said they had received one for over \$200,000 and Just Compassion had received a grant for \$5,000.
- Direct staff to look at inclusion area zones. He explained that inclusion area zones fall into the affordable housing category, and that currently city of Portland is doing this.

- Council consideration of an ordinance that would provide 90-day notice to tenants for a no cause eviction. This would allow tenants more time to find other housing options. He said city Milwaukie, Portland and Vancouver Washington have already passed one.
- Council consideration of adding a full-time staff position that would be a dedicated liaison in working on the homelessness issue. He said this position could reside within the police department.
- Council consideration of allocating funding to Just Compassion for securing another location or to offer more in-kind support in connecting Just Compassion with providers so they could extend their hours of operation to seven days a week.
- Council consideration of convening a summit to see who the players are and if anyone was interested in a partnership.

Council President Snider asked how many staff hours they thought were needed when considering the library option. Officer Wakem replied four to eight hours a week would be needed to allow for flexibility with appointment times.

Mayor Cook asked if there were times when a partnership was helpful. Commander McDonald said what they've done so far was very grass roots, and is important to have someone with expertise in dealing with the homeless population, and thought that a partnership, especially with someone like a social worker would be helpful.

Councilor Woodard commended the two officers and Just Compassion on what they do, and said he wanted to make this a council goal.

Councilor Goodhouse talked about his recent trip to Minneapolis where he attended a breakout session on homelessness. He said the City of Eugene gave a great presentation on what had worked for them; that they realized they needed more volunteers and the value of providing tiny homes for the homeless population. Councilor Goodhouse wanted to look at other cities and check to see what is working for them.

Council President Snider talked about being excited tonight and that for a small investment, the city could do more. He liked the ideas of operating a mail slot and contracting with other organizations. He thanked both officers for their time on the clock and off the clock as volunteers. Council President Snider suggested staff have more conversations with Just Compassion to see if they had more ideas.

Councilor Goodhouse talked about the possibility of forming a committee with members throughout the community that meet once a month and could report more to the council.

Mayor Cook said he spent nine days earlier in the month discussing homelessness issues and liked the idea of creating a task force made up of individuals who have expertise in the area of homelessness.

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Councilor Henderson said working with people and communication was key and that in the work he has done with homeless people, he has found that once someone is off the streets, they turn around and work with the homeless. He talked about Salt Lake City's homeless programs.

Councilor Woodard said he would like staff to look at having a transportation call center that could help the homeless population get to appointments.

Mr. Wyatt talked about what he heard from council and said staff would be looking to get something going within the next calendar year and would look into forming a committee.

5. WILLAMETTE RIVER WATER COALITION (WRWC) UPATE BRIEFING

Public Works Director Rager explained the city's engagement with Willamette River Water Supply Program, where the city is with the water district, intake structure on the Willamette, how much they can pump per day and where the city would be in 2020. He said TVWD needs to know by December 31 if Tigard would participate or not, and if they did, he believed, Tigard's financial investment wouldn't happen for until the following fiscal year.

Councilor Woodard asked if they would need to vote. Mr. Rager said the opinion of the city attorney is that the city would not need a vote until the city decided to use the water.

Councilor Henderson asked staff if Tigard currently has a permit for 25 million gallons and staff replied they do. Mr. Rager explained that the city would just be securing their shares; that any additional expansion or pipe location cost from the treatment center to Tigard would be future costs.

Councilor Henderson asked why Tigard would give up a twenty-five million gallon permit if we decided to do this. Staff explained our rights would still exist, but that the city wouldn't have a practical way of using it. Councilor Henderson said it was possible they could sell the twenty-five million gallon permit instead of giving it up. Mr. Rager explained the question before council tonight is just on the intake structure; that they wouldn't be giving up their water rights.

Council President Snider asked what the practical alternatives would be if they did not participate now. Mr. Rager explained the city could potentially be on their own. Councilor Henderson said the city could get their water through Sherwood. Mr. Rager asked council what they would like staff to bring back for consideration.

Councilor Woodard talked about storage capacity and what the city had used and said he has a difficult time going to the voters. City Manager Wine explained they were not discussing going to the voters at the moment, and that it could be several years before that would be needed. Councilor Woodard said he believed the storage capacity is undervalued.

Mr. Rager explained that the ASR is currently treated and that the program has been a successful one for the city. He explained the ASR becomes more and more part of the system as the line moves up, and right now it is serving more as a reserve source, but as the chart picks up it becomes more of a necessity. He said once we hit the year 2055 we would be relying a lot more on the ASR

capacity.

Councilor Goodhouse asked where the \$16 million would come from if they chose to move forward in December. Mr. Rager said he believed they would be able to pay for that under the existing rate structure, but would like to come back with more of a concrete answer.

Mayor Cook said when he voted to increase rates 14 percent to buy the extra 4MGD, he agreed to not vote for the next five years for any additional increases, and he intended to stick to that commitment. He explained his concerns were with the fixed and operational costs within the next five years and if there would be other costs that will need to fit under that same umbrella, as well as the operating cost of the partnership and cash flow of depreciation.

Councilor Henderson asked what things don't affect the ASR. He stated the water isn't free and asked how and when we buy water. Mr. Rager explained they try and buy water in the winter, but there are additional costs to pump the water out of the ground and cost of chlorine to clean the water, and that it's good to exercise the pumps. City Manager Wine said the purpose of the briefing is to have the very discussion council was having to determine when the city may need supply and when to exercise our option to purchase the supply and from where.

Council President Snider agreed with Councilor Goodhouse's statement that water is a precious commodity and is in favor of doing whatever they need in order to have future cost effective options.

6. NON AGENDA ITEMS – There was none.

7. EXECUTIVE SESSION

There was no executive session.

8. ADJOURNMENT

Mayor Cook called for a motion to adjourn the meeting.

At 9:29 p.m. Council President Snider motioned to adjourn the meeting and Councilor Woodard seconded. Motion was approved by unanimous vote of council.

Kelly Burgoyne, Deputy City Recorder

Attest:

John L. Cook, Mayor

Date: _____



City of Tigard

Tigard City Council Meeting Minutes September 27, 2016

STUDY SESSION  6:30 p.m.

Council Present: Mayor Cook, Councilor Henderson, Council President Snider and Councilor Goodhouse.

Staff Present: Assistant City Manager Newton, Assistant Community Development Director McGuire, Associate Planner Kowacz and City Recorder Krager

- A. Council Liaison Reports – Councilor Henderson said the Summerfield Outreach went very well. Council President Snider remarked he would like to duplicate it in another part of the community but it may be difficult to find another group that is as engaged. Councilor Goodhouse mentioned hearing a discussion about attracting attendees to city meetings and that offering prizes, such as Starbucks cards or raffles was effective. Council President Snider said the difference with the Summerfield community is that they wanted to be there and are very interested in what is going on in the community. In response to a question from Council President Snider, Assistant City Manager said ice cream socials can attract as many as 50-80 neighbors.

Council President Snider reported on the Lake Oswego-Tigard Water Partnership Oversight Committee meeting. He said the group is moving towards identifying the general structure of a future operating agreement which at this point may create a separate entity. He said Tigard supports this. He said there is also discussion on whether to immediately begin funding the depreciation of the project which may double the monthly cost. Council President Snider said the current agreement says the intent of both cities is to fund the depreciation immediately which was decided in the 2008 time period. He reported that Mayor Cook found an error in the allocation that when corrected was in Tigard's favor. Money is being put away now for known upcoming maintenance such as filter replacements in ten years. Councilor Henderson asked about money in the budget to help with the Willamette River Water Coalition (WRWC) program. Council President Snider said that money will be in the water fund and comes from future SDCs.

Councilor Goodhouse went on a bike tour of Beaverton with the Westside Economic Alliance which included Nike's new construction. All seven new schools are being built to category 4 standards so they can be used as disaster shelters in an emergency. Features include generators, solar panels and separate water pipes that can be filled by trucks in case the municipal water system is compromised. He said this increases the cost of the buildings by only 1-3 percent.

Mayor Cook attended a Transportation Strategies Team meeting regarding different grant requirements for regional, state and federal grants. He mentioned the bridge fund grant which will pay for the North Dakota Street Bridge but does not cover ramps or a bike/pedestrian path.

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B. COMMUNITY DEVELOPMENT CODE PROCESS AND PROCEDURES PROJECT UPDATE

Associate Planner Kowacz and Assistant Community Development Director McGuire presented this item. This large project will include updates and fix inconsistencies identified by staff and logged in an improvement database. Many changes are administrative or housekeeping items. It includes changes identified by the Strategic Plan Goal 2 audit for walkability, and Comprehensive Plan Goal 10 – housing, to include different types of housing such as detached accessory dwelling units.

Examples of what will be in the update:

- Recommendation to remove or reduce a conditional use permit requirement for trails already in an adopted city trails plan.
- New criteria for approving projects for walkability.
- Establish more consistent terminology.
- Creation of a “general” adjustment instead of many, specific adjustments.
- Develop requirements for detached Accessory Dwelling Units (ADUs)
- Develop a lot line consolidation process. Councilor Goodhouse suggested adding a disclaimer or a time limit so this cannot be used to create a development. Assistant Community Development Director McGuire said a time restriction would be about the limit the city can do to prevent property owners from making several separate lot line adjustments in order to end up with a subdivision. Council President Snider asked if this could be coordinated with the county similar to how the spacing requirements apply to both city and county marijuana facility locations. Mr. McGuire said staff can look into it.

Ms. Kowacz said this process has three parts and discussed the schedule.

- Immediate changes required by FEMA rules and Measure 91 (marijuana establishment spacing limits) – tonight
- A reorganization of the Community Development Code to make it easier to understand and consistent – January 2017
- The content changes and policy decisions will be reviewed:
 - June-July 2017 – Public Open Houses
 - Planning Commission Workshops August – October 2017
 - City Council Workshops - November – December 2017
 - City Council Adoption – January 2018

Council Questions and Comments: Mayor Cook asked for sidewalks to be required for single homes constructed on a lot. Assistant Community Development Director McGuire said there is a rough proportionality test for this and that is why it was probably not done in the past. Councilor Henderson asked if he meant he wanted a sidewalk requirement for

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building on a flag lot and Mayor Cook said yes. Mr. McGuire said he would investigate the rough proportionality evaluation and come back with findings.

Mayor Cook said a few years ago there was a code issue list that contained the sign code, backyard chickens, etc. and asked if council could receive an updated list.

Council President Snider asked if staff has figured out what to recommend about chickens because he still gets a lot of questions. Assistant Community Development Director McGuire said it has evolved to the point that there is an entire legislative project around urban agricultural issues.

Councilor Goodhouse noted that Tualatin is looking at regulating food carts. Mr. McGuire said they are already allowed in Tigard if they meet certain criteria. They must be wheeled, can be in any area where a food or restaurant business is allowed, such as a General Commercial Zone, required parking ratios must be maintained if they are in a parking lot and they cannot hook up to water or sewer. He added that staff is looking into allowing food cart pods and this will be folded into the urban architecture section.

Administrative Items:

Councilor Goodhouse and City Engineer Faha will report on the American Public Works Association Conference at a brown bag lunch presentation at 11:45 a.m. on October 6 in Town Hall.

There is a new gas tax video on the website and a mailer went out in utility bills.

The Hunziker agenda item was missing legal descriptions and Assistant City Manager Newton handed these out to council.

Meeting Changes – The October 11 and November 8 council meetings are cancelled. The October 18 meeting is a combination business/workshop.



1. BUSINESS MEETING

A. At 7:32 p.m. Mayor Cook called the City Council and Local Contract Review Board meeting to order.

B. City Recorder Krager called the roll.

	Present	Absent
Councilor Woodard		✓
Mayor Cook	✓	
Councilor Goodhouse	✓	
Councilor Henderson	✓	
Council President Snider	✓	

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C. Mayor Cook asked everyone to stand and join him in the Pledge of Allegiance.

D. Mayor Cook called to Council and Staff for Non-Agenda Items – None

2. CITIZEN COMMUNICATION

A. Follow-up to Previous Citizen Communication – None

B. Citizen Communication – Sign-up Sheet. No one signed up to speak.

3. CONSENT AGENDA: (Tigard City Council)

A. APPROVE CITY COUNCIL MINUTES:

- July 12, 2016
- July 26, 2016

B. CONSIDER AUTHORIZING THE CITY MANAGER TO SIGN AN IGA WITH ODOT FOR DESIGN AND CONSTRUCTION OF NEW SECTIONS OF THE FANNO CREEK TRAIL

C. CONSIDERATION OF CITYWIDE COLLECTION SERVICES CONTRACT AWARD

D. CONSIDERATION OF JANITORIAL SERVICES CONTRACT AWARD

E. CONSIDERATION OF CONTRACT AWARD FOR DESIGN OF THE TIEDEMAN RE-ALIGNMENT OF FANNO CREEK TRAIL

F. PROCLAIM DISTRACTION FREE DRIVING AWARENESS DAY

Council President Snider moved to approve the Consent Agenda as presented. Councilor Goodhouse seconded the motion. Mayor Cook conducted a vote and the motion passed unanimously.

	Yes	No
Councilor Woodard (absent)		
Mayor Cook	✓	
Councilor Goodhouse	✓	
Councilor Henderson	✓	
Council President Snider	✓	

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4. LEGISLATIVE PUBLIC HEARING: DEVELOPMENT CODE AMENDMENT DCA2016-00002 REQUIRED REGULATORY CHANGES AND FEMA FIRM MAP UPDATE

- a. Mayor Cook opened the public hearing.
- b. City Attorney Rihala read the legislative hearing procedures. A copy was available at the front of the room.
- c. Staff Report: Associate Planner Kowacz gave the staff report on this hearing to adopt flood insurance rate maps (FIRM) and two text amendments. One amendment is to the floodplain regulations to include critical facility regulations, adding a severability clause and other conflicts identified by FEMA with the National Flood Insurance Program. The other is to change spacing requirements between marijuana facilities from 2,000 feet to 1,000 feet.

Associate Planner Kowacz gave some background on the National Flood Insurance Program. It allows property owners who have property within the special flood hazard areas to obtain federally-backed flood insurance. The program also identifies and maps the nation's floodplains and these are placed on the FIRM which is used to determine local jurisdiction regulations, when insurance applies and what the rate might be. Floodplain boundaries are not constant so FEMA periodically amends the floodplain program through updates to the local FIRM and corresponding flood insurance study. The program also provides a community assistant to ensure that floodplain regulations are being adequately enforced. The City of Tigard had a community assistant visit (CAV) in September 2014 and there were a few items identified. One is the severability clause and the others were regulations related to critical facilities, such as hospitals. The city must adopt the updated FIRM and floodplain regulations by November 4, 2016.

Associate Planner Kowacz said the use and possession of recreational marijuana was legalized by voters in November 4, 2014 and on April 21, 2015 the city adopted regulations related to marijuana facilities. More recently HB3400-A passed which established the requirements for a land use compatibility statement, taxation and recognized marijuana as a crop. Also in this bill was the provision that local jurisdictions not require more than 1,000 feet between marijuana facilities. Tigard's code, requiring 2,000 feet, does not comply with state requirements.

Ms. Kowacz said notices were provided per Tigard Development Code Section 18.360. Measure 56 notices were sent July 11, 2016. The city received phone calls regarding the floodplain map changes and three citizens testified at the Planning Commission. Concerns were expressed about the National Flood Insurance Program in general and how a property can be removed from the floodplain designation. Written testimony was received and is included in the staff report. The Planning Commission asked staff to research a community rating program which Portland and Beaverton have been accepted into that can lead to a reduction in flood insurance rates. Assistant Community Development Director McGuire said to get into the program a city must demonstrate they have numerous programs to protect the floodplain. He said he was involved in the program in Portland and it requires assigning a staff person to be the direct contact with FEMA. Tigard does not have some of

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the programs so the city would not have enough points to get a meaningful reduction in rates. He said it requires a fairly extensive staff and resource commitment.

d. Public Testimony – Mayor Cook called for public testimony.

Art Bahrs, 12170 SW Merestone Court, Tigard, OR 97223, said when he purchased their home they put a clause in the contract that it must be surveyed and found to be out of the floodplain, because the cost of flood insurance rose from \$850 per year to \$2,900. He said they have had to fight FEMA annually because they believe Mr. Bahrs' house has moved. His insurance company assisted him in proving that the lines on the map moved but the house did not. He expressed appreciation to Associate Planner Kowacz for her help. He asked what the city can do when FEMA insists that the house moved. He said he has reinforced the grounds and installed retaining walls. Mr. McGuire said he would need to know more about the situation and what FEMA is saying. He cautioned that city staff could look at it and provide documentation but he was unsure of what the outcome would be.

Mayor Cook asked about Mr. Edwards' property and Assistant City Manager Newton remarked that it was a similar situation to Mr. Bahrs' property. The city provided previous maps so Mr. Edwards could show documentation that the line location changed, not the house location. Councilor Goodhouse said in the insurance world this is a common issue with FEMA. Mayor Cook asked if there would be rate increases when this is adopted. Ms. Kowacz said there was a rate increase last April. She said there were many properties that had been in the floodplain but now have been excluded. There were incremental shifts along Fanno Creek but several properties were removed. Assistant Community Development Director McGuire said he has not heard during recent public hearings about anyone's rates going up.

e. Council Questions: Council President Snider asked about a grammatical error in marijuana code Section C.3. Associate Planner Kowacz said she will correct it to say "lot or parcel."

Mayor Cook asked how a property owner can remove themselves from a floodplain and Associate Planner Kowacz said that FEMA has a letter of map removal process. The city keeps track of these and the property owner has to provide documentation. Councilor Henderson said he has gone through this process. His house is five feet higher than Summer Creek. He had it surveyed and was able to show the home was out of the floodplain. He worked with State Farm Insurance and did not find the process that difficult. He reiterated that he removed the house from the floodplain but not the entire lot.

Regarding the marijuana code amendment Mayor Cook said council had additional discussion that they want to bring up other than number of feet, including changes to time, place and manner. Council wants to take another look at Tigard's closing hours, which are stricter than neighboring cities. Also, the council approved not allowing the businesses within the urban mixed-use Central Business District and would like to reconsider that. He understands that staff wants to discuss following the state law on distance regulations but asked if council could consider the other code concerns at the same time. He asked how the

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single code amendment got through Planning Commission when council has these other issues.

- f. Staff Recommendation: Associate Planner Kowacz said staff recommends council approve the ordinance as is and direct staff to open up the marijuana business regulations at a future meeting for the other policy changes.
- g. Council Discussion: Council President Snider said he had mentioned desiring changes for six to ten months and was disappointed that council cannot act on them now while making the change in the code for the 1,000-foot distance. He asked City Attorney Rihala about splitting up the ordinance into two and passing the FEMA code update but keeping the marijuana time, place and manner discussion open. City Attorney Rihala said from a broader standpoint the other issues cannot fit into the present ordinance under consideration tonight.

Councilor Goodhouse asked if there was a deadline to change to 1,000-feet and City Attorney Rihala said the city has been out of compliance for some time. If an application comes to the city asking for a marijuana facility that is within the 2,000-foot boundary in the current code language, the city would be put in the place of going against state law or going against its own code, neither of which is good.

Mayor Cook expressed preference for one hearing to cover all changes to the code related to marijuana. He noted that he does not see agenda items until they have already gone through the Planning Commission hearings. Council President Snider said the Planning Commission should be aware of what direction the City Council is going.

Assistant Community Development Director McGuire said it could take as long as four months to get notices out for another public hearing. City Attorney Rihala recommended deferring the second part of the discussion to a date certain and continuing this hearing. Council President Snider asked if additional changes would need to go through the Planning Commission and City Attorney Rihala said it would depend on the scope of the amendments; a time change is not significant, but location changes might require public notice.

Mayor Cook said he would like to know what other cities do and not arbitrarily select a number for hours of operation. He also asked to review a map prepared by Associate Planner Floyd that was shown at a previous meeting illustrating location restrictions. He noted there is currently one retail operator in Tigard and another has submitted an application but has not yet opened. The map may need to be changed in a few months to reflect this additional business. He noted that the Planning Commission previously voted to allow marijuana businesses on Main Street but half of the street is not available because of proximity to St. Anthony's School. Council chose not to allow such businesses on Main Street but now some members are reconsidering the north half of Main Street or any Central Business District property on Pacific Highway. He requested maps that include existing 2,000 foot limits shown with 1,000 foot boundaries, Pacific Highway and Main Street. He

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noted that other cities have kept these businesses away from libraries, recreation centers and major parks but pocket parks are not included.

Councilor Goodhouse said he wanted to reconsider allowing sites on Scholls Ferry Road, Hall Boulevard and other streets. Council President Snider said he is willing to look at those but does not really want to expand available areas. He asked staff to find out if the Tigard Police Department has any concerns and whether people have the same concerns now that may have had one year ago before legalization.

A discussion on process was held and staff was asked if amendments to marijuana regulations could be completed by the November 4 FEMA deadline. Assistant Community Development Director McGuire said he did not think so. Council President Snider asked if the operating hours could be changed and voted on tonight. City Attorney Rihala asked staff to read the notice and after hearing it she advised council not to vote on other items because the notice was quite specific. The council could consider these changes on the October 18 meeting with October 25 as backup. City Attorney Rihala said council could continue the portion of the discussion on the marijuana code changes.

- h. Close Public Hearing (hearing on marijuana portion was continued)
- i. Council Deliberation and Consideration of Ordinance No. 16-20

Council President Snider moved to approve Ordinance No. 16-20 with the following changes: Remove Sections 4 and 6; Section 5 becomes new Section 4; second and third “Whereas” clauses are deleted; the first three words in Section 3.0 are deleted; and the reference to marijuana is removed from the title. Councilor Henderson seconded the motion.

City Recorder Krager read the number and title of the ordinance.

**ORDINANCE NO. 16-20 – AN ORDINANCE AMENDING THE
TIGARD DEVELOPMENT CODE (TITLE 18) TO ADOPT FEDERAL
AND STATE REQUIRED REGULATORY CHANGES AND NEW FEMA
FIRM MAPS. PROPOSED TIGARD DEVELOPMENT CODE CHANGES
INCLUDING UPDATED AND NEW DEFINITIONS RELATED TO
FLOODPLAINS TO BE PLACED WITHIN CHAPTER 18.120
(DEFINITIONS); TEXT AMENDMENTS TO CHAPTER 18.775
(SENSITIVE LANDS) TO PROVIDE REGULATION RELATING TO
CRITICAL FACILITIES AND ADD A SEVERABILITY CLAUSE, as
amended**

City Recorder Krager conducted a roll call vote.

	Yes	No
Councilor Woodard (absent)		
Mayor Cook	✓	
Councilor Goodhouse	✓	
Councilor Henderson	✓	
Council President Snider	✓	

Councilor Goodhouse made a motion to continue consideration of Section 18.735 to the date certain of October 18, 2016. Council President Snider seconded the motion and all voted in favor.

	Yes	No
Councilor Woodard (absent)		
Mayor Cook	✓	
Councilor Goodhouse	✓	
Councilor Henderson	✓	
Council President Snider	✓	

5. CONSIDER APPROVAL OF A RESOLUTION OF NECESSITY FOR HUNZIKER INFRASTRUCTURE RIGHT OF WAY

Economic Development Manager Purdy and Senior Project Engineer Newbery were present for the staff report. Mr. Purdy said he brought council information in May on the Hunziker infrastructure project and council recommended moving forward with obtaining the rights of way. He said the next step in the process is for council to approve a Resolution of Necessity. He said the resolution attachments include legal descriptions and a table to coordinate which portions of right of way are in which tax lots and properties. A 30 percent design overview shows segment by segment where the road will be and the amount of right of way needed. He said the Resolution of Necessity authorizes the city manager and legal counsel to take that step if needed.

Mayor Cook noted to the audience that this concept has come before council previously in several briefings and the only new documents received tonight were the legal descriptions.

Council President Snider moved for adoption of Resolution No. 16-43. Councilor Goodhouse seconded the motion. City Recorder Krager read the number and title of the resolution.

RESOLUTION NO. 16-43 A RESOLUTION DECLARING THE NEED TO ACQUIRE PROPERTY FOR THE PURPOSE OF CONSTRUCTING STREET, PUBLIC UTILITY AND RELATED IMPROVEMENTS ALONG SW WALL STREET FROM HUNZIKER ROAD TO TECH CENTER DRIVE and AUTHORIZING EMINENT DOMAIN AND IMMEDIATE POSSESSION IF NECESSARY

Mayor Cook conducted a vote and the motion passed unanimously.

	Yes	No
Councilor Woodard (absent)		
Mayor Cook	✓	
Councilor Goodhouse	✓	
Councilor Henderson	✓	
Council President Snider	✓	

6. CONSIDER AUTHORIZING A COMMUNITY DEVELOPMENT BLOCK GRANT (CDBG) APPLICATION FOR BAGAN PARK

Parks Manager Martin gave the staff report and said council is being asked to authorize a CDBG grant application for the Bagan Park property on Greenburg Road, purchased with Parks Bond funds in 2010. This area of Tigard is deficient in parks. A design was conceived in a planning session held with area neighbors. Councilor Henderson commented, “Bagan Park was a winner from the beginning and it will be nice to see this developed.” In response to a question from Mayor Cook, Parks Manager Martin said staff is in the process of prioritizing projects. Mayor Cook asked staff to print a list showing what may be cut if this project is funded. Parks Manager Martin said this project was delayed in order to gain more certainty on how Parks System Development Charges would be handled. Contracts Manager Barrett added that staff ran a forecast and there will be an adequate fund balance to absorb the costs.

In response to a question from Councilor Henderson, Parks Manager Martin said it would not be budgeted until next year. Council President Snider asked if Tigard’s grant application would be competitive and Mr. Martin said it would and that is one reason to have higher matching funds from the city.

Councilor Henderson motioned to authorize a CDBG grant application for Bagan Park. Council President Snider seconded the motion and the motion passed unanimously.

	Yes	No
Councilor Woodard (absent)		
Mayor Cook	✓	
Councilor Goodhouse	✓	
Councilor Henderson	✓	
Council President Snider	✓	

TIGARD CITY COUNCIL MEETING MINUTES – September 27, 2016

7. LOCAL CONTRACT REVIEW BOARD: DISCUSSION ON UPCOMING CONTRACT

Contracts Manager Barrett and Senior Project Engineer Newbury gave the staff report on an upcoming contract for the Canterbury Lane storm line upgrade project. The current storm line was constructed in the 1960s according to standards at that time but without regard for maintenance or access for visual inspection. The upgrade includes installation of a 12-inch storm line with manholes and catch basin and will meet Clean Water Services requirements and city design standards. Eight bids were received and staff will recommend that council approve a contract with D & T Excavation for \$398,000. Councilor Henderson commented that the bids are the closest he has seen in a long time and this tells him that the contractors have confidence in working for the city and staff should be proud. He said Tigard is being looked at as a good place to do business. Mayor Cook asked about the timeframe and if this line is needed for storm water runoff from the single-family homes being constructed on 109th Avenue. Engineer Newbury said only a small portion of the new homes will drain to this line.

Councilor Goodhouse said he has heard questions about water pressure on Canterbury Lane and Engineer Newbury said that will be addressed by a future CIP project and it is not related to this project. Council said this contract could come back as a Consent Agenda item.

8. NON AGENDA ITEMS None

9. EXECUTIVE SESSION

At 8:51 p.m. Mayor Cook read the citation for an Executive Session called under ORS 192.660 (2) (i) to review and evaluate, pursuant to standards, criteria, and policy directives adopted by the governing body, the employment-related performance of the chief executive officer. He announced that the Tigard City Council would adjourn immediately after the Executive Session. The Executive Session ended at 9:16 p.m.

10. ADJOURNMENT

At 9:17 p.m. Council President Snider moved for adjournment. Councilor Goodhouse seconded the motion and all voted in favor.

	Yes	No
Councilor Woodard (absent)		
Mayor Cook	✓	
Councilor Goodhouse	✓	
Councilor Henderson	✓	
Council President Snider	✓	

Carol A. Krager, City Recorder

Attest:

John L. Cook, Mayor

Date

AIS-2878

3. C.

Business Meeting

Meeting Date: 11/01/2016

Length (in minutes): 5 Minutes

Agenda Title: Approve City Center Development Agency Minutes

Submitted By: Kelly Burgoyne, Central Services

Item Type: Motion Requested

Meeting Type: City Center
Development
Agency

Public Hearing: No

Publication Date:

Information

ISSUE

N/A

STAFF RECOMMENDATION / ACTION REQUEST

Approve City Center Development Agency Minutes for:

* September 6, 2016 CCDA Meeting

* October 4, 2016 CCDA Meeting

KEY FACTS AND INFORMATION SUMMARY

N/A

OTHER ALTERNATIVES

N/A

COUNCIL GOALS, POLICIES, APPROVED MASTER PLANS

N/A

DATES OF PREVIOUS COUNCIL CONSIDERATION

N/A

Attachments

September 6, 2016 CCDA Minutes

October 4, 2016 CCDA Minutes



City of Tigard
City Center Development Agency
Meeting Minutes
September 6, 2016



1. CITY CENTER DEVELOPMENT AGENCY BOARD

- A. Director Snider called to order the Tigard City Center Development Agency at 6:33 p.m.
- B. Deputy City Recorder Burgoyne called the roll:

Name	Present	Absent
Chair Cook		√
Director Goodhouse	√	
Director Henderson		√
Director Snider	√	
Director Woodard	√	

- C. Director Snider called to Council and Staff for Non-Agenda Items – There were none.

2. JOINT MEETING WITH CITY CENTER ADVISORY COMMITTEE (CCAC)

Redevelopment Project Manager Farrelly explained the function of the City Center Advisory Committee (CCAC), what they discussed at their February meeting and the packet material that was being presented at the meeting.

Members of the CCAC in attendance were; Chair Carine Arendes, Richard Shavey, Tim Myshak, David Walsh and Linli Pao. Chair Arendes talked about downtown projects, upcoming events in the downtown area, information about research and following up on how to communicate the vision of downtown. She discussed the downtown vision, use of existing resources, online mapping, the Downtown Heritage Trail and Burnham Street construction wrap up. She said staff had done a good job securing funding.

CCAC Member Pao, discussed the CCAC's current research projects; activating Downtown Tigard, topics of interest related to City Civic Center, CCAC's annual goals and the four topics the CCAC was concentrating on.

1. Transportation in downtown area
2. Downtown housing
3. Marketing downtown businesses
4. Marketing the downtown area to developers

The members of the CCAC explained their methodology and how they identified these as a group, policy recommendations, and importance of accessibility for downtown businesses by adopting requirements within the downtown code, setting production goals for the future and the need to address affordable housing. They said they asked for input from downtown stakeholders and did outreach to the public. Ms. Pao asked that the CCDA adopt policies to encourage fully accessible ADA units.

Director Woodard said the policy goals were aspirational and would like to see the element of recreation in the four areas. He explained how recreation creates a gateway to bring people together, creating an activated space. He suggested the CCAC contact the Recreation Coordinator, Anthony Markey for suggestions.

Director Goodhouse liked the idea of a trail.

Director Snider discussed the spaces and their planned use. He said they had done an amazing job in their research and that it was focus specific.

CCAC Chair Arendes explained that going through the process allowed them to produce the aspirations, policy and a way to implement them.

CCAC Member Linly said they identified real problems in real time.

CCAC Member Shavey said he thought adding recreation was a great idea.

Director Woodard discussed housing in the downtown area and the need to address affordable housing and homelessness. He asked if someone from the group would like to participate in the Council's upcoming homelessness agenda item.

Director Snider asked what staff's perspective was on the four goals and restructured frame work, and if there are any areas of concern.

Mr. Farrelly said the CCAC worked hard on this and commended the group for their efforts. He explained staff had given feedback.

Director Snider asked if the recommended policy changes would be coming forward to City Council, and asked staff to come back with concrete recommendations on how they would be addressing each item.

CCAC Chair Arendes talked about finding ways to get information out to everybody and making sure the information is accessible on the city's website; possibly listing available downtown properties, updating the Urban Renewal Plan and providing information about current housing trends.

Director Snider asked about marketing identity and if someone was working on that. They discussed the idea of branding in the form of naming, like "The Pearl" or "Kruse Way" had done, giving the community a feeling of distinction. CCAC Member Walsh said they didn't want to force the idea of branding; instead, they wanted to see how it would happen organically. There was discussion about signage and lighting.

CCAC Member Pao read a statement thanking the members of the City Center Development Agency for their support and especially thanked Director Henderson for his contributions to the community. She said he had been the most active member and he would be missed.

3. APPROVE CITY CENTER DEVELOPMENT AGENCY MINUTES

- April 5, 2016 CCDA Meeting
- May 3, 2016 CCDA Combo Meeting with City Council
- June 7, 2016 CCDA Combo Meeting with City Council

Motioned by Director Goodhouse and seconded by Director Woodard to approve the minutes as presented. Motion passed by a unanimous vote.

<u>Name</u>	<u>Yes</u>	<u>No</u>
Chair Cook (Absent)		
Director Goodhouse	√	
Director Henderson (Absent)		
Director Snider	√	
Director Woodard	√	

4. UPDATE ON MAIN STREET/FANNO CREEK (SAXONY) SITE REDEVELOPMENT STUDY

Redevelopment Project Manager Farrelly explained what the grant would do and discussed the action agreement, clean-up timeline, impacts to the protected corridor, mitigation of Fanno Creek and enhancement of the natural features onsite, public access, watershed education feature, access to the rear of the building, property negotiations with ODOT, current tenant relocation. Mr. Farrelly explained the agency had budgeted up to \$25,000 for tenant relocation fees; he explained they would be contributing to one of the current tenant's moving expenses, but that the other tenant was on a month to month lease and the agency was not required to contribute to their moving expenses. He discussed the elevation of the building, the land use process for getting the footprint of the building approved and that the application had been submitted on July 21 and would go before the Hearings Officer on November 19. There was further discussion on potential development of the building, community outreach and public noticing requirements. Director Snider encouraged staff to think more broadly and said he would like to see more people noticed than what was minimally required by law. Staff responded that they could send out a supplemental public notice that included more people.

Mr. Farrelly discussed green roofs and improving the vegetative corridor and explained potential ways the space could be divided.

Director Goodhouse asked if the entire building would be offices. Mr. Farrelly said yes, with the exception of the ground floor.

Director Woodard asked staff how many parking spaces for tenants were being proposed. Staff said thirteen spaces were being proposed, and that possible parking lease agreements with downtown businesses were being discussed. Staff explained there would also be on-street parking.

Director Woodard stated the commercial space was different, but feels better.

Director Goodhouse liked the idea of building the shell and then adding the footprint.

Director Snider was concerned about public perception, and wanted to make sure they were managing that, since this was the first time a project like this had come before them.

5. UPDATE ON DOWNTOWN URBAN LOFTS PROJECT (CET GRANT)

Redevelopment Project Manager Farrelly said the agency was awarded a Community Planning and Development grant last fall for \$100,000 for the Downtown Tigard Urban Lofts project. He discussed the two properties they were looking at. The first property is the Tigard Transit Center which is owned by TriMet, and the second is the privately owned Nicoli property. He said the city was working closely with TriMet to free up the property, and that TriMet was at the table because of the SW Corridor Light Rail project that if passed by voters, would require rethinking of bus routes. He discussed operating costs, bus capacity for future service, light rail station location, transit center functions, affordable housing options, survey of the site and the timeline for Phase One.

Director Snider said the project could not happen without TriMet's support.

6. NON-AGENDA ITEMS - There were none.

7. ADJOURNMENT

Director Snider called for a motion to adjourn.

**Motion by Director Woodard seconded by Director Goodhouse to adjourn the meeting.
Motion passed by a unanimous vote.**

<u>Name</u>	<u>Yes</u>	<u>No</u>
Chair Cook (Absent)		
Director Goodhouse	√	
Director Henderson (Absent)		
Director Snider	√	
Director Woodard	√	

Director Snider adjourned the meeting at 8:20 pm.

Kelly Burgoyne, Deputy City Recorder

Attest:

Jason B. Snider, Director

Date



City of Tigard City Center Development Agency Board - Agenda

TIGARD CITY CENTER DEVELOPMENT AGENCY BOARD

MEETING DATE AND TIME: October 4, 2016 - 6:30 p.m.
MEETING LOCATION: City of Tigard –Town Hall -
13125 SW Hall Blvd., Tigard, OR 97223

1. CITY CENTER DEVELOPMENT AGENCY MEETING

- A. Call to Order – Chair Cook called the meeting to order at 6:32 p.m.
- B. Roll Call – Deputy City Recorder Burgoyne called the roll.

<u>Name</u>	<u>Present</u>	<u>Absent</u>
Chair Cook	√	
Director Goodhouse	√	
Director Henderson	√	
Director Snider		√
Director Woodard		√

Chair Cook asked the audience to stand for the flag salute.

- C. Call to Board and Staff for Non-Agenda Items – There were none.

2. DOWNTOWN BUSINESS SPOTLIGHT: THE BALLROOM DANCE COMPANY

Owner of The Ballroom Dance Company Sunny Page presented background on how she became a ballroom dancer, what inspired her to become a dance teacher, how long her dance company has been in Tigard and what makes them different from other dance companies. She said her dance studio is open seven days a week and they hold over 50 hours of dance classes each week, in addition she rents out each of the ballrooms for events of all kinds. She explained they have three decorated ballrooms that are set-up with LED lighting and that her clients come from all around the region and from other states to perform. Ms. Page said her dance studio is a clean-cut family business where all ages and dance levels are welcome. She ended her presentation by inviting the board members to visit her business for a guided tour.

Director Goodhouse thanked Ms. Page for coming and said the building looked good from the outside and it is nice to know they hold other events.

Chair Cook asked if there was one night a week dedicated for scheduling events. Ms. Page said they schedule and accommodate events as needed. Chair Cook said he had driven by several times and from the outside one would not know there are three ballrooms inside.

TIGARD CITY CENTER DEVELOPMENT AGENCY MINUTES – OCTOBER 4, 2016

3. INITIATE PUBLIC REVIEW OF TIGARD TRIANGLE URBAN RENEWAL PLAN

Senior Planner Shanks and Consultant Eileen Howard talked about the CCDA's role in the public review of the Tigard Triangle Urban Renewal Plan, vision of the plan and identified barriers. Ms. Shanks explained staff had received input from the Citizen Advisory Council and the Technical Advisory Committee, and all agreed it is a good project in creating the Tigard Triangle. She went over the board's previous discussion from the last meeting and said she had followed up with Jim Long as requested, but that she hadn't heard back from him. She said TVF&R supports the plan, but has some concerns that city staff and TVF&R are working through. She explained they were before the CCDA in order to initiate the public review of the plan and if the board approved a motion tonight, the next steps were to brief the Washington County Board of Commissioners on October 18, 2016, the Planning Commission on November 14, 2016 and then go before City Council on December 13, 2016 for adoption and referral to the May 2017 election.

Director Henderson asked if this was a time sensitive situation and if there was enough time to address TVF&R's concerns. Chair Cook said this will need to be presented to City Council in December. Ms. Shanks said yes, and stated it was not time sensitive at this point and that staff would be presenting the final version at the December 13 meeting; which allowed enough time to make it on the May 2017 election. She said they were asking the CCDA to initiate the public review process at tonight's meeting and if the CCDA chose to move forward, staff would be sending out consultant review letters to the general public and overlapping taxing districts.

Ms. Shanks explained staff would be revising the plan before the December 13 City Council meeting and would include any changes from TVF&R, the legal description and current property value data which would be released from the County Assessor in mid-October.

Chair Cook asked when the start date for locked in values began. Eileen Howard explained that when and if the voters approve the Urban Renewal Plan and it is adopted, the frozen base of property values will be at that time and they would have already been established in October 2016. There was discussion about bare land value vs land that had already been developed. Ms. Howard said the roll the Assessor adopts would be within the next two weeks and is based on the values of those properties as of January 1, 2016; so that any development that has come on the tax roll after January 1 goes into that incremental value within the area. She explained the Assessor's values are based on a calendar year and not a fiscal year when assessing property.

Ms. Howard discussed the language in the State Statue and what was required from the city.

Motioned by Director Goodhouse and seconded by Director Henderson to forward the Tigard Triangle Urban Renewal Plan to the Tigard Planning Commission for their review of the Plan's conformance to the Tigard Comprehensive Plan and then to the Tigard City Council for a public hearing, the review, and vote. Motion passed by a unanimous vote.

<u>Name</u>	<u>Yes</u>	<u>No</u>
Chair Cook	√	
Director Goodhouse	√	
Director Henderson	√	
Director Snider (Absent)		
Director Woodard (Absent)		

TIGARD CITY CENTER DEVELOPMENT AGENCY MINUTES – OCTOBER 4, 2016

4. PUBLIC REVIEW OF CITY CENTER URBAN RENEWAL PLAN SUBSTANTIAL AMENDMENT -

Redevelopment Project Manager Farrelly discussed initiating the public review for the City Center Urban Renewal Plan Substantial Amendment and what was discussed at the last meeting. Mr. Farrelly explained that because the recession had reduced property values and development, the city was falling behind on its capacity and was projecting six million less in tax increments than what was originally projected. He said that in order for the city to get closer to the 22 million dollars in maximum indebtedness, they needed to expand the urban renewal area; allowing for collection of tax increment revenues that would be more in line with the original amount envisioned for the urban renewal area. He explained the City Center Advisory Commission had been briefed on the substantial amendment. He said the next steps in the process would be to brief the Washington County Board of Commissioners on October 18, 2016, the Planning Commission on November 14, 2016 and finally the City Council on December 13, 2016 to consider adopting the draft plan.

Chair Cook asked if the expansion would create a need for rezoning. Mr. Farrelly said it would not necessarily change the zoning.

Director Goodhouse asked if the property value of the areas that are existing are locked in and if the property value for the new areas would be forged from the start date of January 1; creating two sets of values within the new district. Mr. Farrelly said that was correct. Ms. Howard said the Assessor would combine those into one frozen base.

Director Henderson asked if the timeline would catch up with the Tigard Triangle Urban Renewal Plan. Mr. Farrelly said they are trying to mirror the same timeline and bring this item forward at the same time to each Commission/Committee.

Motioned by Director Goodhouse and seconded by Director Henderson to forward the City Center Urban Renewal Plan Substantial Amendment to the Tigard Planning Commission for their review of the Plan's conformance to the Tigard Comprehensive Plan and then to the Tigard City Council for a public hearing, the review, and vote. Motion passed by a unanimous vote.

<u>Name</u>	<u>Yes</u>	<u>No</u>
Chair Cook	√	
Director Goodhouse	√	
Director Henderson	√	
Director Snider (Absent)		
Director Woodard (Absent)		

Mr. Farrelly said they would be getting an endorsement of this motion from the City Center Advisory Council (CCAC) next week.

Director Henderson asked if the same committees that reviewed the Tigard Triangle Urban Renewal Plan had also reviewed this plan. Mr. Farrelly said no, but letters would be going out to all the taxing districts. Ms. Howard said she would be at those meetings and would show them the amendment.

TIGARD CITY CENTER DEVELOPMENT AGENCY MINUTES – OCTOBER 4, 2016

Director Henderson asked staff to inform them if there are any changes before the December 13 City Council meeting. Mr. Farrelly said if there were any changes they would provide an update to the CCDA at their first meeting in December.

5. NON AGENDA ITEMS – None.

EXECUTIVE SESSION

There was none.

6. ADJOURNMENT

Chair Cook called for a motion to adjourn.

**Motion by Director Henderson seconded by Director Goodhouse to adjourn the meeting.
Motion passed by a unanimous vote.**

<u>Name</u>	<u>Yes</u>	<u>No</u>
Chair Cook	√	
Director Goodhouse	√	
Director Henderson	√	
Director Snider (Absent)		
Director Woodard (Absent)		

Chair Cook adjourned the meeting at 7:14 p.m.

Kelly Burgoyne, Deputy City Recorder

Attest:

John Cook, Chair

Date

AIS-2883

4.

Business Meeting

Meeting Date: 11/01/2016

Length (in minutes): 10 Minutes

Agenda Title: Consider Marijuana Facilities Ordinance

Submitted By: Agnes Kowacz, Community
Development

Item Type: Motion Requested
Ordinance

Meeting Type: Council
Business
Meeting -
Main

Public Hearing: No

Publication Date:

Information

ISSUE

Amend Chapter 18.735 Marijuana Facilities as approved at the October 18, 2016 meeting. The amendment will reduce spacing requirements between marijuana facilities from 2,000 feet to 1,000 feet and increase the hours of operation from 10AM-8PM to 7AM-10PM.

STAFF RECOMMENDATION / ACTION REQUEST

Staff recommends that City Council sign the proposed ordinance relating to marijuana facilities.

KEY FACTS AND INFORMATION SUMMARY

On September 27, 2016, a public hearing was held on DCA2016-00002 to:

1. Adopt updated Flood Insurance Rate Maps; and
2. Amend the Tigard Development Code (TDC) by:
 - a. Updating floodplain regulations (Chapter 18.775 Sensitive Lands) relating to critical facilities and adding a severability clause, definitions and removing conflicting language with the NFIP; and
 - b. Changing marijuana facility (Chapter 18.735) spacing requirements from 2,000 feet to 1,000 feet.

City Council passed the FEMA flood plain related amendments and continued the hearing relating to marijuana facilities to October 18, 2016. City Council asked staff to provide additional information regarding hours of operation, police activity, and maps showing potential locations of these facilities if not limited to frontage on Pacific Highway (99W) and by the park zone buffer.

City Council discussed hours of operation and the potential for allowing marijuana facilities in

additional locations. The Council made a motion to approve extended hours of operation, from 7AM to 10PM, and to change the spacing requirements to 1,000 feet between facilities. Staff was asked to prepare an ordinance for the November 1, 2016 meeting. Council also directed staff to seek input from downtown business owners and other groups regarding the location issue, before returning to Planning Commission for a recommendation on the matter.

OTHER ALTERNATIVES

1. Withdraw the motion to approve and revise the amendment.
2. Withdraw the motion and deny.

COUNCIL GOALS, POLICIES, APPROVED MASTER PLANS

DATES OF PREVIOUS COUNCIL CONSIDERATION

September 27, 2016 and October 18, 2016

Attachments

Ordinance

Exhibit A Staff Report

Exhibit B Memo

Exhibit C Amendments

CITY OF TIGARD, OREGON
TIGARD CITY COUNCIL
ORDINANCE NO. 16-_____

AN ORDINANCE AMENDING THE TIGARD DEVELOPMENT CODE (TITLE 18) TO ADOPT TEXT AMENDMENTS TO CHAPTER 18.735 (MARIJUANA FACILITIES) THAT REDUCE SPACING REQUIREMENTS BETWEEN FACILITIES AND CHANGE PERMITTED HOURS OF OPERATION.

WHEREAS, the Tigard City Council directed Planning Division staff to prepare amendments to the Tigard Community Development Code pertaining to spacing requirements between facilities and hours of operation of marijuana facilities within the boundaries of the City; and

WHEREAS, the purpose of amending Chapter 18.735 is to establish compliance with ORS 475B.340, which precludes local jurisdictions from enacting a buffer between retail marijuana facilities of more than 1,000 feet; and

WHEREAS, notice was provided to the Department of Land Conservation and Development at least 35 days prior to the first evidentiary public hearing; and

WHEREAS, notice of the public hearing was given in conformance with Community Development Code Chapter 18.390.060.D; and

WHEREAS, the Tigard Planning Commission held a duly noticed public hearing on August 15, 2016 and recommended by unanimous vote that Council approve proposed code amendment; and

WHEREAS, the Tigard City Council held a public hearing on September 27, 2016 and October 18, 2016, to consider the proposed amendments; and

WHEREAS, the Tigard City Council has considered the Planning Commission recommendation; and

WHEREAS, the Tigard City Council has considered the applicable Statewide Planning Goals and Guidelines adopted under Oregon Revised Statutes Chapter 197; applicable federal or state statutes or regulations; applicable Metro regulations; applicable Comprehensive Plan Policies; and applicable provisions of the City's implementing ordinances; and

WHEREAS, the Tigard City Council has determined that the proposed development code amendments are consistent with the applicable review criteria, and approves amendments to the Tigard Community Development Code as being in the best interest of the City of Tigard.

NOW, THEREFORE, THE CITY OF TIGARD ORDAINS AS FOLLOWS:

SECTION 1: Council adopts the findings recommended by the Planning Commission as contained in the September 27, 2016 Staff Report to the City Council, included as

“Exhibit A” to this Ordinance as the basis in support of the corresponding code amendments.

SECTION 2: Council further adopts the staff memo to Council providing additional information, shown as **“Exhibit B”**, as an additional basis in support of the corresponding code amendments.

SECTION 3: Tigard Development Code (Title 18) 18.735 Marijuana Facilities is amended as shown in **“Exhibit C”** to this Ordinance.

SECTION 4: This Ordinance shall be effective 30 days after its passage by the Council, signature by the Mayor, and posting by the City Recorder.

PASSED: By _____ vote of all Council members present after being read by number and title only, this _____ day of _____, 2016.

APPROVED: By Tigard City Council this _____ day of _____, 2016.

Carol Krager, City Recorder

Approved as to form: _____
John L. Cook, Mayor

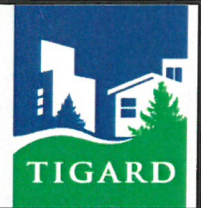
City Attorney

Date

Agenda Item: # 1

Hearing Date: September 27, 2016 Time: 7:30 PM

**PLANNING COMMISSION
RECOMMENDATION TO THE
CITY COUNCIL
FOR THE CITY OF TIGARD, OREGON**



SECTION I. APPLICATION SUMMARY

CASE NAME: **REQUIRED REGULATORY CHANGES AND FEMA FIRM MAP UPDATE**

CASE NO.: **Development Code Amendment (DCA)** **DCA2016-00002**

PROPOSAL: The City of Tigard proposes legislative amendments to the Tigard Development Code (TDC). The proposed amendments include:

1. Adopt updated Flood Insurance Rate Maps; and
2. TDC amendments:
 - a. Update floodplain regulations (Chapter 18.775 Sensitive Lands) relating to critical facilities and add a severability clause, definitions and conflicting language with the NFIP; and
 - b. Change marijuana facilities (Chapter 18.735) spacing requirements between facilities from 2,000 feet to 1,000 feet.

APPLICANT: City of Tigard
13125 SW Hall Blvd.
Tigard, OR 97223

ZONES: Citywide

LOCATION: Citywide

**APPLICABLE
REVIEW**

CRITERIA: Statewide Planning Goals 1 (Citizen Involvement), 2 (Land Use Planning), 7 (Areas subject to Natural Disasters and Hazards), and 9 (Economic Development); ORS 475B (Cannabis Regulation); METRO's Urban Growth Management Functional Plan Titles 3, and 8; Comprehensive Plan Goals 1.1.2, 2.1.2, 2.1.3, 2.1.6, 2.1.11, 2.1.23, 7.1.7, 7.1.8 and 7.1.9; and Tigard Development Code Chapters 18.380 and 18.390

SECTION II. PLANNING COMMISSION RECOMMENDATION

Planning Commission recommends approval by ordinance of the proposed development code text amendments (Attachment 1) with any alterations as determined through the public hearing process. Additionally, that City Council directs staff to investigate Tigard's participation in the Community Rating System;

SECTION III. BACKGROUND INFORMATION AND PROJECT SUMMARY

Required Regulatory Changes and FEMA Firm Map Update

The purpose of the Required Regulatory Changes and FEMA Firm Map Update Project is to update the Sensitive Lands Chapter (Section 18.775) with the required Federal Emergency Management Agency (FEMA) requirements, adopt the updated Flood Insurance Rate Maps and amend the Marijuana Facilities Chapter (Section 18.735) with reduced spacing requirements. A brief summary of the National Flood Insurance Program and the proposed changes is provided below.

The National Flood Insurance Program (NFIP) is a federal program that was established in 1968 through the passage of the National Flood Insurance Act and administered by FEMA. The programs allow owners of properties within the Special Flood Hazard Area (SFHA)—also sometimes described as the 100-year floodplain—to obtain federally-backed insurance for their properties in jurisdictions that have adopted land use regulations for development in the floodplain. In addition to providing insurance, the NFIP identifies and maps the Nation's floodplains, known as the Flood Insurance Rate Map (FIRM) which results from a Flood Insurance Study. The FIRM is an official map on which FEMA has delineated both the SFHA and other flood zones within a community. The FIRM is used in determining a jurisdiction's floodplain regulations, whether a property owner is required to obtain flood insurance as well as the insurance rate.

Floodplain boundaries do not stay constant but rather undergo change over time due to effects of erosions, development impacts, vegetation removal and other factors. To account for floodplain boundary changes, FEMA periodically adjusts the SFHA maps used by local jurisdictions. The City of Tigard does not conduct floodplain inventories and relies on FEMA for the determination of the SFHA boundary. FEMA periodically amends the regulatory requirement of the NFIP through updates to the local FIRM and a corresponding Flood Insurance Study Report. Prior to amending the FIRM and/or developing new or revised floodplain requirements as part of the NFIP updates, FEMA coordinates with local jurisdictions to determine local flood area conditions. The FIRM updates must be adopted and effective within 6 months of FEMA's Letter of Final Determination. On May 4, 2016 FEMA notified the City of Tigard of the final flood elevation determinations on the FIRM for properties in the City of Tigard within the SFHA. FEMA's notification gave the City a 6-month timeline to adopt the FIRM and associated floodplain regulations by ordinance.

The NFIP's Community Assistance Program provides communities with technical assistance to ensure that the community is adequately enforcing its floodplain management regulations. This is done through a Community Assistance Visit (CAV). If any administrative problems or potential violations are identified during a CAV the community will be notified and given the opportunity to correct those administrative procedures and remedy the violations to the maximum extent possible within established deadlines. The City of Tigard received a Community Assistance Visit (CAV) Narrative in September of 2014 that identified deficiencies in the City's current floodplain regulations that are required to be adopted in order to be in compliance with NFIP requirements.

FEMA requires that this ordinance with the proposed text amendments to TDC 18.775 and updated Flood Insurance Rate Maps be adopted and in effect by November 4, 2016 in order for the City of Tigard to remain a participant in NFIP.

Staff received an email on August 10, 2016 from Roxanne Pilkenton; FEMA requesting additional changes to Chapter 18.775. The identified changes are required in order to be in compliance with the NFIP. Prior to the Planning Commission public hearing, staff incorporated the following:

1. Required definitions (18.775.040.R); and
2. removed the entire section 18.775.020.A. 1 through 10, leaving language requiring a CWS stormwater connection permit; and
3. disclaimer of liability (18.775.040.S); and
4. greater restriction (18.775.404.T)

The email also identified section 18.775.020.B and 18.775.020.C to be in direct conflict with the NFIP. Staff stated at the Planning Commission public hearing that FEMA has been contacted for further clarification on these two items and that staff will propose any necessary changes to the City Council at the public hearing.

Proposed Amendments

Amend the Tigard Development Code Sensitive Lands Chapter (TDC 18.775) as proposed:

- Text Amendments to Chapter 18.120 (Definitions) to establish new definitions for “Critical facility” and “Special Flood Hazard Area”
- Text Amendments to Chapter 18.120 (Definitions) to amend the definition for “Floodway” as defined by FEMA
- Text Amendments to Chapter 18.120 (Definitions) to remove the definition for “Floodplain” which is replaced by “Special Flood Hazard Area”.
- Text Amendments to Chapter 18.775 (Sensitive Lands) to replace the term “floodplain” with “Special Flood Hazard Area”
- Text Amendments to Chapter 18.775 (Sensitive Lands) to amend the date of the updated Flood Insurance Study and accompanying Flood Insurance Rate Map dated November 4, 2016
- Text Amendments to Chapter 18.775 (Sensitive Lands) to establish new regulations for the construction of new critical facilities
- Text Amendments to Chapter 18.775 (Sensitive Lands) to include a severability clause.
- Text Amendments to Chapter 18.775 (Sensitive Lands) to remove No. 1 through 10 listed in 18.775.020.A.
- Text Amendments to Chapter 18.775 (Sensitive Lands) to include additional definitions.
- Text Amendments to Chapter 18.775 (Sensitive Lands) to include a disclaimer of liability.
- Text Amendments to Chapter 18.775 (Sensitive Lands) to include a greater restriction section.

Marijuana Change Legislative Background

In November 2014, Oregon became the fourth state in the nation to legalize recreational marijuana. Prior to this, legal marijuana activity was limited to the state medical marijuana program. Below is a brief summary of legislative history on marijuana followed by the proposed changes to the City’s marijuana regulations.

- August 14, 2013 - Governor signs HB3460, which requires the Oregon Health Authority to develop and implement a process to register medical marijuana dispensaries so that patients could legally purchase medical marijuana. Under this bill, dispensaries cannot be within 1,000 feet of a school, 1,000 feet of another dispensary, and must be located within an industrial, commercial, or mixed-use zone.
- March 19, 2014 – Governor signs SB1531 which authorizes local governments to adopt reasonable regulations regarding the hours of operation; location; and manner in which medical marijuana dispensaries are operated. SB1531 also states that a local jurisdiction may enact an ordinance declaring a one-year moratorium on dispensaries.
- November 4, 2014 - Oregon voters approved Ballot Measure 91 to legalize the use and possession of recreational marijuana on July 1, 2015. The law also directs the Oregon Liquor Control Commission to tax, license, and regulate recreational marijuana through a licensing system to be established by January 2016. The measure did not make any changes to the existing medical marijuana system.

- April 21, 2015- City of Tigard Ordinance No 15-07 was adopted, which established time, place and manner restrictions on Marijuana Facilities through the creation of new chapter in the TDC titled Marijuana Facilities (TDC 17.735), which applied to both medical and recreational marijuana.
- June 30, 2015 - Governor signs HB3400A which authorizes local government to regulate commercial recreation marijuana regulations; establishes the requirement of a Land Use Compatibility Statement (LUCS); recognizes marijuana as a farm crop; requires OLCC to create a seed-to-sale tracking system; and establishes provisions for state and local taxation. **HB3400A also prohibits local jurisdictions from requiring a distance buffer of greater than 1,000 feet between stated-licensed retail marijuana facilities.**

Proposed Amendments

The proposed amendment to the Marijuana Facilities Chapter (18.735) changes the spacing requirements between marijuana facilities from 2,000 feet to 1,000 feet (TDC 17.735.040.C.3.b). This change is a result of House Bill (HB) 3400A, which precludes local jurisdictions from enacting a larger spacing requirement than 1,000 feet.

SECTION IV. APPLICABLE CRITERIA, FINDINGS AND CONCLUSIONS

STATEWIDE PLANNING GOALS AND GUIDELINES

State planning regulations require cities to adopt and amend Comprehensive Plans and land use regulations in compliance with the state land use goals. Because the proposed Code Amendments have a limited scope and the text amendments address only some of the topics in the Statewide Planning Goals, only applicable Statewide Goals are addressed below.

Statewide Planning Goal 1 – Citizen Involvement:

This goal outlines the citizen involvement requirement for adoption of Comprehensive Plans and changes to the Comprehensive Plan and implementing documents.

FINDING: This goal has been met by complying with the Tigard Development Code notice requirements set forth in Section 18.390.060 (Type IV Procedures). Notices were sent by US Postal Service on July 28, 2016 to affected government agencies and the latest version of the City's interested parties list. A notice was published in the Tigard Times newspaper prior to the hearing. Project information and documents were published to the City website prior to the public hearing. A minimum of two public hearings will be held (one before the Planning Commission and the second before the City Council) at which an opportunity for public input is provided. This goal is satisfied.

Statewide Planning Goal 2 – Land Use Planning:

This goal outlines the land use planning process and policy framework.

FINDING: The Department of Land Conservation and Development (DLCD) has acknowledged the City's Comprehensive Plan as being consistent with the statewide planning goals. The Development Code implements the Comprehensive Plan. The Development Code establishes a process and standards to review changes to the Tigard Development Code in compliance with the Comprehensive Plan and other applicable state requirements. As discussed within this report, the applicable Development Code process and standards have been applied to the proposed amendment. This goal is satisfied.

Statewide Planning Goal 7 – Areas Subject to Natural Disaster:

This goal requires jurisdictions to protect development in places subject to natural hazards.

FINDING: The Department of Land Conservation and Development has acknowledged the City's Comprehensive Plan as being consistent with the statewide planning goals. The proposed text amendments create a land use control that will buffer land uses and protect development in places subject to natural hazards.

Consistency with the City's Hazard goals and policies are discussed later in this report under applicable policies of the Tigard Comprehensive Plan. This goal is satisfied.

Statewide Planning Goal 9 – Economic Development:

This goal seeks to provide adequate opportunities throughout the state for a variety of economic activities vital to the health, welfare, and prosperity of Oregon's citizens.

FINDING: The Department of Land Conservation and Development has acknowledged the City's Comprehensive Plan as being consistent with the statewide planning goals. Consistency with the City's Comprehensive Plan Economic Development goals and policies is discussed later in this report under Tigard Comprehensive Plan Goal 9.1 and associated policies. This goal is satisfied.

CONCLUSION: Based on the findings above and the related findings below, staff finds the proposed code amendments are consistent with applicable Statewide Planning Goals.

APPLICABLE PROVISIONS OF THE OREGON CANNABIS REGULATIONS

ORS 475B.340(2): Notwithstanding ORS 633.738, the governing body of a city or county may adopt ordinances that impose reasonable regulations on the operation of businesses located at premises for which a license has been issued under ORS 475B.070, 475B.090, 475B.100 or 475B.110 if the premises are located in the area subject to the jurisdiction of the city or county, except that the governing body of a city or county may not adopt an ordinance that prohibits a premises for which a license has been issued under ORS 475B.110 from being located within a distance that is greater than 1,000 feet of another premises for which a license has been issued under ORS 475B.110

FINDING: The proposed amendment changes the City's current spacing requirement of 2,000 feet between facilities to 1,000 feet, making the City's code in compliance with the state statute. This requirement is satisfied.

CONCLUSION: Based on the findings above, staff finds that the proposed code text amendment is consistent with the Oregon Cannabis Regulations (ORS 475B).

METRO'S URBAN GROWTH MANAGEMENT FUNCTIONAL PLAN

State planning regulations require cities to adopt and amend Comprehensive Plans and land use regulations in compliance with the state land use goals. Because the proposed Code Amendments have a limited scope and the text amendments address only some of the topics in the METRO's Urban Growth Management Functional Plan, only applicable Titles are addressed below.

Title 3 – Water Quality and Flood Management:

This goal outlines the citizen involvement requirement for adoption of Comprehensive Plans and changes to the Comprehensive Plan and implementing documents.

FINDING: The proposed amendment will adopt the newly updated FEMA Flood Insurance Rate Maps, which will allow the City to continue to participate in the National Flood Insurance Program. The proposed floodplain regulation relating to critical facilities will provide protection for development located within natural flood hazard areas. The proposed amendment also includes updated terminology consistent with state and federal laws. This title is satisfied.

Title 8 – Compliance Procedures:

This goal outlines the citizen involvement requirement for adoption of Comprehensive Plans and changes to the Comprehensive Plan and implementing documents.

FINDING: This title has been met by complying with the Tigard Development Code notice requirements set forth in Section 18.390.060 (Type IV Procedures). Notices were sent by US Postal Service on July 28, 2016 to affected government agencies and the latest version of the City's interested parties list. A notice was published in the Tigard Times newspaper prior to the hearing. Project information and documents were published to the City website prior to the public hearing. A minimum of two public hearings will be held (one before the Planning Commission and the second before the City Council) at which an opportunity for public input is provided. This title is satisfied.

CONCLUSION: Based on the findings above, staff finds that the proposed code amendment is consistent with Metro's Urban Growth Management Functional Plan.

TIGARD COMPREHENSIVE PLAN

State planning regulations require cities to adopt and amend Comprehensive Plans and land use regulations in compliance with the state land use goals and consistent with Comprehensive Plan Goals and Policies. Because the Development Code Amendments have a limited scope and the text amendments address only some of the topics in the Tigard Comprehensive Plan, only applicable comprehensive plan goals and associated policies are addressed below.

Comprehensive Plan Goal 1: Citizen Involvement

Policy 1.1.2: The City shall define and publicize an appropriate role for citizens in each phase of the land use planning process.

FINDING: This policy has been met by complying with the Tigard Development Code notice requirements set forth in Section 18.390.060 (Type IV Procedures). Notices were sent by US Postal Service on July 28, 2016 to affected government agencies and the latest version of the City's interested parties list. A notice was published in the Tigard Times newspaper prior to the hearing. Project information and documents were published to the City website prior to the public hearing. A minimum of two public hearings will be held (one before the Planning Commission and the second before the City Council) at which an opportunity for public input is provided. This policy is met.

Comprehensive Plan Goal 2: Land Use Planning

Policy 2.1.2: The City's land use regulations, related plans, and implementing actions shall be consistent with and implement its Comprehensive Plan.

FINDING: As demonstrated in this staff report, the proposed amendments to the Tigard Development Code are consistent with the Tigard Comprehensive Plan. This policy is satisfied.

Policy 2.1.3: The City shall coordinate the adoption, amendment, and implementation of its land use program with other potentially affected jurisdictions and agencies.

FINDING: Copies of the proposed text amendments were sent to affected agencies and were invited to comment on the proposal, as required by Section 18.390.060 (Type IV Procedures) and discussed in Section V of this report. Comments submitted by affected agencies have been incorporated into this report and the proposed amendments. This policy is satisfied.

Policy 2.1.6: The City shall promote the development and maintenance of a range of land use types which are of sufficient economic value to fund needed services and advance the community's social and fiscal stability.

FINDING: The proposed text amendments will enable more marijuana facilities to be located within the City which will result in more taxable economic activity to occur. This policy is satisfied.

Policy 2.1.11: The City shall adopt regulations and standards to protect public safety and welfare from hazardous conditions related to land use activities.

FINDING: The proposed amendment includes the adoption of FEMA's Flood Insurance Rate Maps, which will maintain the City's participation in the National Flood Insurance Program and protect the public welfare for properties located within the SFHA.

Due to requirements by the State of Oregon, the spacing requirement between marijuana facilities is proposed to be reduced from 2,000 feet to 1,000 feet. However, all other buffers from residential areas and parks, and minimum design requirements, will remain in order to protect public safety and welfare from associated marijuana facilities. This policy is satisfied.

Policy 2.1.23 The City shall require new development, including public infrastructure, to minimize conflicts by addressing the need for compatibility between it and adjacent existing and future land uses.

FINDING: The proposed amendments include reducing the buffer between marijuana facilities from 2,000 feet to 1,000 feet between facilities; this is a requirement of the State of Oregon. However, all other buffers from residential areas and parks, and minimum design requirements, will remain in order to ensure compatibility between marijuana facilities subject to state licensing or registration, and adjacent development and public facilities. This policy is satisfied.

Comprehensive Plan Goal 7: Hazards

Policy 7.1.7: The City shall comply with the Federal Emergency Management Agency (FEMA) flood regulations, which include standards for base flood levels, flood proofing, and minimum finished floor elevations.

FINDING: The proposed amendments adopt the newly updated FEMA Flood Insurance Rate Maps, update definitions consistent with federal law, and establish regulations for critical facilities. These proposed amendments are consistent with state and federal laws. This policy is satisfied.

Policy 7.1.8: The City shall prohibit any land form alterations or developments in the 100-year floodplain which would result in any rise in elevation of the 100-year floodplain.

FINDING: The proposed amendments adopt the recently updated FEMA Flood Insurance Rate Maps and regulations for development within the SFHA ensuring that development will not result in any rise in elevation of the 100-year floodplain. This policy is satisfied.

Policy 7.1.9: The City shall not allow land form alterations of development within the 100-year floodplain outside the zero-foot rise floodway unless:

- A. The streamflow capacity of the zero-foot rise and floodway is maintained; and
- B. Engineered drawings and/or documentation shows there will be no detrimental upstream or downstream effects in the floodplain area.

FINDING: The proposed amendments adopt the newly updated FEMA Flood Insurance Rate Maps and regulations for development within the SFHA ensuring that development will not be detrimental to the floodplain. This policy is satisfied.

CONCLUSION: Based on the findings above, staff concludes that the proposed code text amendment is consistent with applicable provisions of the Tigard Comprehensive Plan.

APPLICABLE PROVISIONS OF THE TIGARD DEVELOPMENT CODE

Section 18.380: Zoning Map and Text Amendments

18.380.020 Legislative Amendments to this Title and Map

Legislative zoning map and text amendments shall be undertaken by means of a Type IV procedure, as governed by Section 18.390.060G.

FINDING: The proposed amendments are legislative in nature. Therefore, the amendment will be reviewed under the Type IV legislative procedure as set forth in the chapter. This procedure requires public hearings by both the Planning Commission and City Council. This standard is satisfied.

Section 18.380: Decision Making Procedures

18.390.060 Type IV Procedure

G. Decision-making considerations. The recommendation by the commission and the decision by the council shall be based on consideration of the following factors:

1. The Statewide Planning Goals and Guidelines adopted under Oregon Revised Statutes Chapter 197;
2. Any federal or state statutes or regulations found applicable;

3. Any applicable METRO regulations;
4. Any applicable comprehensive plan policies; and
5. Any applicable provisions of the City's implementing ordinances.

FINDING: Findings and conclusions are provided in this section for the applicable listed factors on which the recommendation by the Commission and the decision by the Council shall be based. This standard is satisfied.

CONCLUSION: Based on the findings above, staff concludes that the proposed code text amendment is consistent with applicable provisions of the Tigard Development Code.

SUMMARY

CONCLUSION: As shown in the findings above, staff concludes that the proposed amendments are consistent with the applicable Statewide Planning Goals; the Oregon Cannabis Regulations (ORS 475B); METRO's Urban Growth Management Functional Plan; applicable Comprehensive Plan goals and policies, and the applicable provisions of the City's implementing ordinances.

SECTION V. AGENCY COMMENTS

City of Portland, City of Beaverton, City of Durham, City of Lake Oswego, City of Tualatin, City of King City, Washington County, METRO, ODOT, Oregon, DLCD, DEQ, ODFW, CWS, Tri-Met, FEMA and Tigard Water District and were notified of the proposed code text amendment but provided no comment.

Tualatin Valley Fire and Rescue provided comments stating they have reviewed the proposal and have no objections to it.

FEMA provided comments stating that several things were out of compliance with the NFIP. Staff worked with FEMA and made the appropriate changes to Chapter 18.775 to comply with the NFIP. These emails are provided as Attachment 4.

SECTION VI. PUBLIC COMMENTS

Prior to the Planning Commission public hearing, the City received one email from Mr. Joel Vermillion, 10525 SW Tigard Street, asking how the proposed amendment will impact his property. A map of the current 100-year floodplain and the proposed map were provided. Mr. Vermillion also asked about paving an existing gravel area within the floodplain. Staff notified Mr. Vermillion that other sensitive lands are present on the property which may impact any development on the property.

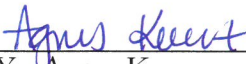
The City received six phone calls and two residents came into the permit center asking about properties within the special flood hazard area. A map of the current 100-year floodplain and the proposed map were provided. No further comments were received.

The Planning Commission heard testimony from three citizens and received one written public comment (received from one of the citizens who also testified) at the public hearing on August 15, 2016. The testimony and written comment were considered by the Planning Commission as they formed their recommendation to Council that the proposed map update and code changes be approved. The written public comment is included as Attachment 2 and Planning Commission Minutes are Attachment 3.

ATTACHMENTS:

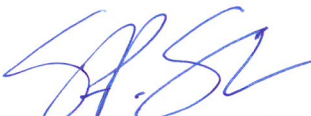
Attachments:

1. Proposed Amendments
 - a. 18.120 Definitions
 - b. 18.775 Sensitive Lands
 - c. 18.735 Marijuana Facilities
2. Public Comment Letter- Mr. Davis
3. August 15, 2016 Planning Commission Minutes
4. Emails from FEMA dated August 10th and 17th, 2016



PREPARED BY: Agnes Kowacz
Associate Planner

August 31, 2016
DATE

 for Tom McGuire

APPROVED BY: Tom McGuire
Assistant Community Development Director

August 31, 2016
DATE

DCA2016-00002
REQUIRED REGULATORY CHANGES AND FEMA FIRM MAP UPDATE
DEVELOPMENT CODE AMENDMENT

Explanation of Formatting

These text amendments employ the following formatting:

~~Strikethrough~~ - Text to be deleted

[Bold, Underline and Italic] – Text to be added

Excerpt from Chapter 18.120

18.120 Definitions

18.120.030 Meaning of Specific Words and Terms

86. Flood-related definitions:

a. “Base flood” - The flood having a one percent chance of being equaled or exceeded in any given year. Also referred to as the “100-year flood.”

b. “Critical facility”- A facility for which even a slight chance of flooding might be too great. Critical facilities include, but are not limited to schools,; nursing homes,; hospitals; police, fire, and emergency response installations; and installations which produce, use or store hazardous materials or hazardous waste.

~~b. “Floodplain” - The zone along a watercourse enclosed by the outer limits of land which is subject to inundation in its natural or lower revised contours by the base flood.~~

c. “Floodway” - ~~The normal stream or drainage channel~~ **of a river or other watercourse** and ~~that the adjoining adjacent land areas of the natural floodplain needed to convey the waters, including the zero-foot rise floodway area defined by the U.S. Corps of Engineers Flood Insurance Study, February, 1984.~~ ~~Floodways must be reserved in order to discharge the base flood without cumulatively increasing the water surface elevation~~ **more than one foot.**

d. “Floodway fringe” - The area of the floodplain ~~special flood hazard area~~ lying outside of the floodway.

e. “Special Flood Hazard Area”- The land area covered by the floodwaters of the base flood is the Special Flood Hazard Area (SFHA) on NFIP maps. The SFHA is the area where the National Flood Insurance Program's (NFIP's) floodplain management regulations must be enforced and the area where the mandatory purchase of flood insurance applies. The SFHA includes Zones A, AO, AH, A1-30, AE, A99, AR, AR/A1-30, AR/AE, AR/AO, AR/AH, AR/A, VO, VI-30, VE, and V. Also referred to as the “100-year floodplain.”

DCA2016-00002
REQUIRED REGULATORY CHANGES AND FEMA FIRM MAP UPDATE
DEVELOPMENT CODE AMENDMENT

Explanation of Formatting

These text amendments employ the following formatting:

~~Strikethrough~~ - Text to be deleted

[Bold, Underline and Italic] – Text to be added

Chapter 18.775
SENSITIVE LANDS

Sections:

18.775.010	Purpose
18.775.020	Applicability of Uses: Permitted, Prohibited, and Nonconforming
18.775.030	Administrative Provisions
18.775.040	General Provisions for Floodplain <i>Special Flood Hazard</i> Areas
18.775.050	General Provisions for Wetlands
18.775.060	Expiration of Approval: Standards for Extension of Time
18.775.070	Sensitive Land Permits
18.775.080	Application Submission Requirements
18.775.090	Special Provisions for Development within Locally Significant Wetlands and Along the Tualatin River, Fanno Creek, Ball Creek, and the South Fork of Ash Creek
18.775.100	Adjustments to Underlying Zone Standards
18.775.110	Density Transfer
18.775.120	Variances to Section 18.775.090 Standards
18.775.130	Plan Amendment Option
18.775.140	Significant Habitat Areas Map Verification Procedures

18.775.010 Purpose

- A. Maintain integrity of rivers, streams, and creeks. Sensitive land regulations contained in this chapter are intended to maintain the integrity of the rivers, streams, and creeks in Tigard by minimizing erosion, promoting bank stability, maintaining and enhancing water quality, and fish and wildlife habitats, and preserving scenic quality and recreation potential.
- B. Implement comprehensive plan and floodplain management program. The regulations of this chapter are intended to implement the comprehensive plan and the city's floodplain management program as required by the *Federal Emergency Management Agency (FEMA) through the* National Flood Insurance Program, ~~and to~~ help to preserve ~~natural~~ sensitive land areas from encroaching use, and to maintain the *November 4, 2016* ~~February 18, 2005~~, zero-foot rise floodway elevation.
- C. Implement Clean Water Service (CWS) design and construction standards. The regulations of this chapter are intended to protect the beneficial uses of water within the Tualatin River Basin in accordance with the CWS "Design and Construction Standards," as adopted February 7, 2000.

- D. Implement the Metro Urban Growth Management Functional Plan. The regulations of this chapter are intended to protect the beneficial water uses and functions and values of resources within water quality and flood management areas and to implement the performance standards of the Metro Urban Growth Management Functional Plan.
- E. Implement Statewide Planning Goal 5 (Natural Resources). The regulations in this chapter are intended to address the requirements of Statewide Planning Goal 5 (Natural Resources) and the safe harbor provisions of the Goal 5 administrative rule pertaining to wetland and riparian corridors.
- F. Protect public health, safety, and welfare. Sensitive land areas are designated as such to protect the public health, safety, and welfare of the community through the regulation of these sensitive land areas.
- G. Location. Sensitive lands are lands potentially unsuitable for development because of their location within:
 - 1. The ~~100-year floodplain~~ special flood hazard area or 1996 flood inundation line, whichever is greater;
 - 2. Natural drainageways;
 - 3. Wetland areas which are regulated by the other agencies including the U.S. Army Corps of Engineers and the Division of State Lands, or are designated as significant wetland on the City of Tigard “Wetland and Stream Corridors Map”;
 - 4. Steep slopes of 25% or greater and unstable ground; and
 - 5. Significant fish and wildlife habitat areas designated on the City of Tigard “Significant Habitat Areas Map.” (Ord. 06-20, Ord. 05-01)

18.775.020 Applicability of Uses—Permitted, Prohibited, and Nonconforming

- A. CWS stormwater connection permit. All proposed development must obtain a stormwater connection permit from CWS pursuant to its design and construction standards. ~~As used in this chapter, the meaning of the word “development” shall be as defined in the CWS “Design and Construction Standards”:~~ All human induced changes to improved or unimproved real property, including:
 - ~~1. Construction of structures requiring a building permit, if such structures are external to existing structures;~~
 - ~~2. Land division;~~
 - ~~3. Drilling;~~
 - ~~4. Site alterations resulting from surface mining or dredging;~~
 - ~~5. Grading;~~
 - ~~6. Construction of earthen berms;~~
 - ~~7. Paving;~~

- ~~8. Excavation; or~~
 - ~~9. Clearing when it results in the removal of trees or vegetation which would require a permit from the local jurisdiction or an Oregon Department of Forestry tree removal permit.~~
 - ~~10. The following activities are not included in the definition of development:~~
 - ~~a. Farming activities when conducted in accordance with accepted farming practices as defined in ORS 30.930 and under a Senate Bill 1010 water quality management plan;~~
 - ~~b. Construction, reconstruction, or modification of a single family residence on an existing lot of record within a subdivision that was approved by the city or county after September 9, 1995 (from ORS 92.040(2)); and~~
 - ~~c. Any development activity for which land use approvals have been issued pursuant to a land use application submitted to the city or county on or before February 4, 2000, and deemed complete on or before March 15, 2000.~~
- B. Outright permitted uses with no permit required. Except as provided below and by subsections D, F, and G of this section, the following uses are outright permitted uses within the ~~100-year floodplain,~~ ***special flood hazard area*** drainageways, slopes that are 25% or greater, and unstable ground when the use does not involve paving. For the purposes of this chapter, the word “structure” shall exclude: children’s play equipment, picnic tables, sand boxes, grills, basketball hoops and similar recreational equipment.
1. Accessory uses such as lawns, gardens, or play areas; except in a water quality sensitive area or vegetated corridor, as defined in the CWS “Design and Construction Standards” or the Statewide Goal 5 vegetated corridor established for the Tualatin River, as defined in Section 18.775.090.
 2. Farm uses conducted without locating a structure within the sensitive land area; except in a water quality sensitive area or vegetative corridor, as defined in CWS “Design and Construction Standards” or the Statewide Goal 5 vegetated corridor established for the Tualatin River, as defined in Section 18.775.090.
 3. Community recreation uses, excluding structures; except in a water quality sensitive area or vegetated corridor, as defined in the CWS “Design and Construction Standards” or the Statewide Goal 5 vegetated corridor established for the Tualatin River, as defined in Section 18.775.090.
 4. Public and private conservation areas for water, soil, open space, forest, and wildlife resources.
 5. Removal of poison oak, tansy ragwort, blackberry, English ivy, or other noxious vegetation.
 6. Maintenance of floodway excluding re-channeling; except in a water quality sensitive area or vegetated corridor, as defined in the CWS “Design and Construction Standards” or the Statewide Goal 5 vegetated corridor established for the Tualatin River, as defined in Section 18.775.090.
 7. Fences; except in the floodway area; a water quality sensitive area or vegetated corridor, as defined in the CSW “Design and Construction Standards”; or the Statewide Goal 5 vegetated corridor established for the Tualatin River, as defined in Section 18.775.090.

8. Accessory structures which are less than 120 square feet in size; except in the floodway area; a water quality sensitive area or vegetated corridor, as defined in the CSW “Design and Construction Standards”; or the Statewide Goal 5 vegetated corridor established for the Tualatin River, as defined in Section 18.775.090.
 9. Land form alterations involving up to 10 cubic yards of material; except in the floodway area; a water quality sensitive area or vegetated corridor, as defined in the CSW “Design and Construction Standards”; or the Statewide Goal 5 vegetated corridor established for the Tualatin River, as defined in Section 18.775.090.
- C. Exemptions. When performed under the direction of the city, and in compliance with the provisions of the City of Tigard Standards and Specifications for Riparian Area Management, on file in the engineering division, the following shall be exempt from the provisions of this section:
1. Responses to public emergencies, including emergency repairs to public facilities;
 2. Stream and wetlands restoration and enhancement programs;
 3. Non-native vegetation removal;
 4. Planting of native plant species; and
 5. Routine maintenance or replacement of existing public facilities projects.
- D. Jurisdictional wetlands. Landform alterations or developments which are only within wetland areas that meet the jurisdictional requirements and permit criteria of the U.S. Army Corps of Engineers, Division of State Lands, CWS, and/or other federal, state, or regional agencies, and are not designated as significant wetlands on the City of Tigard “Wetland and Streams Corridors Map,” do not require a sensitive lands permit. The city shall require that all necessary permits from other agencies are obtained. All other applicable city requirements must be satisfied, including sensitive land permits for areas within the ~~100-year floodplains~~ **special flood hazard area**, slopes of 25% or greater or unstable ground, drainageways, and wetlands which are not under state or federal jurisdiction.
- E. Administrative sensitive lands review.
1. Administrative sensitive lands permits in the ~~100-year floodplains~~ **special flood hazard area**, drainageway, slopes that are 25% or greater, and unstable ground shall be obtained from the appropriate community development division for the following:
 - a. The city engineer shall review the installation of public support facilities by means of a Type I procedure, as governed by Section 18.390.030 subject to compliance with all of the standards in this chapter;
 - b. The city engineer shall review minimal ground disturbance(s) or landform alterations involving 10 to 50 cubic yards of material, except in the floodway area, for land that is within public easements and rights-of-way by means of a Type I procedure, as governed by Section 18.390.030 subject to compliance with all of the standards in this chapter;
 - c. The director shall review minimal ground disturbance(s) or landform alterations involving 10 to 50 cubic yards of material, except in the floodway area by means of a Type I procedure, as governed by Section 18.390.030 subject to compliance with all of the standards in this chapter;

- d. The director shall review the repair, reconstruction, or improvement of an existing structure or utility, the cost of which is less than 50% of the market value of the structure prior to the improvement or the damage requiring reconstruction provided no development occurs in the floodway by means of a Type I procedure, as governed by Section 18.390.030 subject to compliance with all of the standards in this chapter;
 - e. The building official shall review building permits for accessory structures which are 120 to 528 square feet in size, except in the floodway area; and
 - f. The director shall review applications for paving on private property, except in the floodway area by means of a Type I procedure, as governed by Section 18.390.030 subject to compliance with all of the standards in this chapter.
2. The responsible community development division shall approve, approve with conditions, or deny an application for a development permit, as described above, based on the standards set forth in Sections 18.775.050, 18.775.070, and 18.775.080.

F. Sensitive lands permits issued by the director.

1. The director shall have the authority to issue a sensitive lands permit in the following areas by means of a Type II procedure, as governed in Section 18.390.040, using approval criteria contained in Section 18.775.070:
 - a. Drainageways;
 - b. Slopes that are 25% or greater or unstable ground; and
 - c. Wetland areas which are not regulated by other local, state, or federal agencies and are designated as significant wetlands on the City of Tigard “Wetland and Streams Corridors Map.”
2. Sensitive lands permits shall be required for the areas in paragraph 1 of this subsection F when any of the following circumstances apply:
 - a. Ground disturbance(s) or land form alterations involving more than 50 cubic yards of material;
 - b. Repair, reconstruction, or improvement of an existing structure or utility, the cost of which equals or exceeds 50% of the market value of the structure prior to the improvement or the damage requiring reconstruction;
 - c. Residential and nonresidential structures intended for human habitation; and
 - d. Accessory structures which are greater than 528 square feet in size, outside floodway areas.

G. Sensitive lands permits issued by the hearings officer.

1. The hearings officer shall have the authority to issue a sensitive lands permit in the *special flood hazard area* ~~100-year floodplain~~ by means of a Type IIIA procedure, as governed by Section 18.390.050, using approval criteria contained in Section 18.775.070.

2. Sensitive lands permits shall be required in the ~~100-year floodplain~~ special flood hazard area when any of the following circumstances apply:
 - a. Ground disturbance(s) or landform alterations in all floodway areas;
 - b. Ground disturbance(s) or landform alterations in floodway fringe locations involving more than 50 cubic yards of material;
 - c. Repair, reconstruction, or improvement of an existing structure or utility, the cost of which equals or exceeds 50% of the market value of the structure prior to the improvement or the damage requiring reconstruction provided no development occurs in the floodway;
 - d. Structures intended for human habitation; and
 - e. Accessory structures which are greater than 528 square feet in size, outside of floodway areas.
- H. Other uses. Except as explicitly authorized by other provisions of this chapter, all other uses are prohibited on sensitive land areas.
- I. Nonconforming uses. A use established prior to the adoption of this title, which would be prohibited by this chapter or which would be subject to the limitations and controls imposed by this chapter, shall be considered a nonconforming use. Nonconforming uses shall be subject to the provisions of Chapter 18.760. (Ord. 09-13; Ord. 06-20)

18.775.030 Administrative Provisions

- A. Interagency coordination. The appropriate approval authority shall review all sensitive lands permit applications to determine that all necessary permits shall be obtained from those federal, state, or local governmental agencies from which prior approval is also required.

As governed by CWS “Design and Construction Standards,” the necessary permits for all “development,” as defined in Section 18.775.020.A, shall include a CWS service provider letter, which specifies the conditions and requirements necessary, if any, for an applicant to comply with CWS water quality protection standards and for the agency to issue a stormwater connection permit.

- B. Alteration or relocation of water course.
 1. The director shall notify communities adjacent to the affected area and the State Department of Land Conservation and Development prior to any alteration or relocation of a watercourse, and submit evidence of such notification to the Federal Insurance Administration;
 2. The director shall require that maintenance is provided within the altered or relocated portion of a watercourse so that the flood-carrying capacity is not diminished.
- C. Apply standards. The appropriate approval authority shall apply the standards set forth in Sections 18.775.040 and 18.775.070 when reviewing an application for a sensitive lands permit.
- D. Elevation and floodproofing certification. The appropriate approval authority shall require that the elevations and floodproofing certification required in subsection E of this section be provided prior to permit issuance and verification upon occupancy and final approval.
- E. Maintenance of records.

1. Where base flood elevation data is provided through the flood insurance study, the building official shall obtain and record the actual elevation (in relation to mean sea level) of the lowest floor (including basement) of all new or substantially improved structures, and whether or not the structure contains a basement;
2. For all new or substantially improved floodproofed structures, the building official shall:
 - a. Verify and record the actual elevation (in relation to mean sea level); and
 - b. Maintain the floodproofing certifications required in this chapter.
3. The director shall maintain for public inspection all other records pertaining to the provisions in this chapter.

18.775.040 General Provisions for ~~Floodplain~~ Special Flood Hazard Areas

- A. Permit review. The appropriate approval authority shall review all permit applications to determine whether proposed building sites will minimize the potential for flood damage.
- B. Special flood hazard. The areas of special flood hazard identified by ~~the Federal Insurance Administration~~ FEMA in a scientific and engineering report entitled “The Flood Insurance Study of the City for Washington County, Oregon and Incorporated Areas of Tigard,” effective February 18, 2005 ~~dated effective November 4, 2016~~ with accompanying ~~Flood Insurance rate maps~~ Map effective February 18, 2005, is hereby adopted by reference and declared to be a part of this chapter ordinance. ~~This flood insurance study is on file at the Tigard Civic Center.~~
- C. Base flood elevation data. When base flood elevation data has not been provided in accordance with subsection B of this section, the director shall obtain, review and reasonably utilize any base flood elevation and floodway data available from a federal, state or other source, in order to administer subsections M and N of this section.
- D. Test of reasonableness. Where elevation data is not available either through the flood insurance study or from another authoritative source, applications for building permits shall be reviewed to assure that the potential for flood damage to the proposed construction will be minimized. The test of reasonableness is a local judgment and includes use of historical data, high water marks, photographs of past flooding, etc., where available. Failure to elevate at least two feet above grade in these sensitive land areas may result in higher insurance rates.
- E. Resistant to flood damage. All new construction and substantial improvements, including manufactured homes, shall be constructed with materials and utility equipment resistant to flood damage.
- F. Minimize flood damage. All new construction and substantial improvements, including manufactured homes, shall be constructed using methods and practices that minimize flood damage.
- G. Equipment protection. Electrical, heating, ventilation, plumbing, and air-conditioning equipment and other service facilities shall be designed and/or otherwise elevated or located so as to prevent water from entering or accumulating within the components during conditions of flooding.
- H. Water supply systems. All new and replacement water supply systems shall be designed to minimize or eliminate infiltration of floodwater into the system.

- I. Anchoring. All new construction, all manufactured homes and substantial improvements shall be anchored to prevent flotation, collapse, or lateral movement of the structure.
- J. Sanitary sewerage systems. New and replacement sanitary sewerage systems shall be designed to minimize or eliminate infiltration of floodwater into the systems and discharge from the systems into floodwater.
- K. On-site water disposal systems. On-site water disposal systems shall be located to avoid impairment to them or contamination from them during flooding.
- L. Residential construction.
 - 1. New construction and substantial improvement of any residential structure, including manufactured homes, shall have the lowest floor, including the basement, elevated at least one foot above base flood elevation;
 - 2. Fully enclosed areas below the lowest floor that are subject to flooding are prohibited, or shall be designed to automatically equalize hydrostatic flood forces on exterior walls by allowing for the entry and exit of floodwater. Designs for meeting this requirement must either be certified by a registered professional engineer or architect, or must meet or exceed the following minimum criteria:
 - a. A minimum of two openings having a total net area of not less than one square inch for every square foot of enclosed area subject to flooding shall be provided;
 - b. The bottom of all openings shall be no higher than one foot above grade; and
 - c. Openings may be equipped with screens, louvers, or other coverings or devices, provided that they permit the automatic entry and exit of flood waters.
 - 3. Manufactured homes shall be securely anchored to an adequately anchored permanent foundation system. Anchoring methods may include, but are not limited to, use of over-the-top or frame ties to ground anchors.
- M. Nonresidential construction. New construction and substantial improvement of any commercial, industrial, or other nonresidential structure shall either have the lowest floor, including basement, elevated to the level of the base flood elevation, or together with attendant utility and sanitary facilities, shall:
 - 1. Be floodproofed so that below the base flood level the structure is watertight with walls substantially impermeable to the passage of water;
 - 2. Have structural components capable of resisting hydrostatic and hydrodynamic loads and effects of buoyancy;
 - 3. Be certified by a registered professional engineer or architect that the design and methods of construction are in accordance with accepted standards of practice for meeting provisions of this subsection based on their development and/or review of the structural design, specifications and plans. Such certifications shall be provided to the building official as set forth in 18.775.030.E.2; and

4. Nonresidential structures that are elevated, not floodproofed, must meet the same standards for space below the lowest floor as described in paragraph L.2 of this section. Applicants floodproofing nonresidential buildings shall be notified that flood insurance premiums will be based on rates that are one foot below the floodproofed level (e.g., a building constructed to the base flood level will be rated as one foot below that level).
- N. Subdivisions and partitions in ~~400-year floodplains~~ **special flood hazard areas**. Subdivisions and partitions in the ~~400-year floodplains~~ **special flood hazard area** shall meet the following criteria:
1. The design shall minimize the potential for flood damage;
 2. Public utilities and facilities such as sewer, gas, electrical, and water systems shall be located and constructed so as to minimize flood damage;
 3. Adequate drainage shall be provided to reduce exposure to flood damage; and
 4. For subdivisions or partitions which contain more than 50 lots or five acres and where base flood elevation data is not available from the Federal Emergency Management Agency (FEMA) or another authoritative source, the applicant shall generate base flood elevation data to be reviewed as part of the application.
- O. Recreational vehicles. Recreational vehicles placed on sites within Zones A1-A30, AH, and AE on the community's flood insurance rate map either:
1. Are on the site for fewer than 180 consecutive days;
 2. Are fully licensed and ready for highway use:
 - a. Are on wheels or jacking system,
 - b. Are attached to the site only by quick disconnect type utilities and security devices, and have no permanently attached additions, or
 - c. Meet the requirements of subsections E, F, I, and L of this section and the elevation and anchoring requirements for manufactured homes. (Ord. 05-01)
- P. Construction of new critical facilities shall be, to the extent possible, located outside of the limits of the special flood hazard area. Construction of new critical facilities shall be permissible within the special flood hazard area if no feasible alternative site is available. Critical facilities constructed within the special flood hazard area shall have the lowest floor elevated three feet above base flood elevation or to the height of the 500-year flood, whichever is higher. Access to and from the critical facility should also be protected to the height utilized above. Floodproofing and sealing measures must be taken to ensure that toxic substances will not be displaced by or released into floodwaters. Access routes elevated to or above the level of the base flood elevation shall be provided to all critical facilities to the extent possible.**
- O. Severability. If any section, clause, sentence, or phrase of the ordinance is held to be invalid or unconstitutional by any court of competent jurisdiction, then said holding shall in no way affect the validity of the remaining portions of this Ordinance.**
- R. Definitions. The following definitions are only applicable to this section:**

1. DEVELOPMENT means any man-made change to improved or unimproved real estate, including but not limited to buildings or other structures, mining, dredging, filling, grading, paving, excavation or drilling operations or storage of equipment or materials.
2. FLOOD INSURANCE RATE MAP (FIRM) means an official map of a community, on which the Federal Insurance Administrator has delineated both the special hazard areas and the risk premium zones applicable to the community. A FIRM that has been made available digitally is called a Digital Flood Insurance Rate Map (DFIRM).
3. FLOOD INSURANCE STUDY (FIS) means the official report provided by the Federal Insurance Administration that includes flood profiles, the Flood Boundary-Floodway Map, and the water surface elevation of the base flood.
4. LOWEST FLOOR means the lowest floor of the lowest enclosed area (including basement). An unfinished or flood resistant enclosure, usable solely for parking of vehicles, building access or storage in an area other than a basement area is not considered a building's lowest floor; Provided, that such enclosure is not built so as to render the structure in violation of the applicable non-elevation design requirements of § 60.3.
5. MANUFACTURED HOME means a structure, transportable in one or more sections, which is built on a permanent chassis and is designed for use with or without a permanent foundation when attached to the required utilities. The term "manufactured" home does not include a "recreational vehicle".
6. NEW CONSTRUCTION means, for the purposes of determining insurance rates, structures for which the "start of construction" commenced on or after the effective date of an initial FIRM or after December 31, 1974, whichever is later, and includes any subsequent improvements to such structures. For floodplain management purposes, new construction means structures for which the start of construction commenced on or after the effective date of a floodplain management regulation adopted by a community and includes any subsequent improvements to such structures.
7. RECREATIONAL VEHICLE means a vehicle which is: (a) Built on a single chassis; (b) 400 square feet or less when measured at the largest horizontal projection; (c) Designed to be self-propelled or permanently towable by a light duty truck; and (d) Designed primarily not for use as a permanent dwelling but as temporary living quarters for recreational, camping, travel, or seasonal use.
8. START OF CONSTRUCTION includes substantial improvement, and means the date the building permit was issued, provided the actual start of construction, repair, reconstruction, placement or other improvement was within 180 days of the permit date. The actual start means either the first placement of permanent construction of a structure on a site, such as the pouring of slab or footings, the installation of piles, the construction of columns, or any work beyond the stage of excavation; or the placement of a manufactured home on a foundation. Permanent construction does not include land preparation, such as clearing, grading and filling; nor does it include the installation of streets and/or walkways; nor does it include excavation for a basement, footings, piers, or foundations or the erection of temporary forms; nor does it include the installation on the property of accessory buildings, such as garages or sheds not occupied as dwelling units or not part of the main structure, whether or not that alteration affects the external dimensions of the building.

9. **STRUCTURE** means, for floodplain management purposes, a walled and roofed building, including a gas or liquid storage tank, that is principally above ground, as well as a manufactured home.
10. **SUBSTANTIAL DAMAGE** means damage of any origin sustained by a structure whereby the cost of restoring the structure to it's before damaged condition would equal or exceed 50 percent of the market value of the structure before the damage occurred.
11. **VIOLATION** means the failure of a structure or other development to be fully compliant with the community's flood plain management regulations. A structure or other development without the elevation certificate, other certifications, or other evidence of compliance required in § 60.3(b)(5), (c)(4), (c)(10), (d)(3), (e)(2), (e)(4), or (e)(5) is presumed to be in violation until such time as that documentation is provided.

S. Disclaimer of Liability. This section provides a reasonable degree of flood protection but does not imply total flood protection.

T. Greater Restriction. This section shall not in any way impair/remove the necessity of compliance with any other applicable laws, ordinances, regulations, etc. Where this section imposes a greater restriction, the provisions of this section shall control.

18.775.050 General Provisions for Wetlands

- A. **Code compliance requirements.** Wetland regulations apply to those areas classified as significant on the City of Tigard "Wetland and Streams Corridors Map," and to a vegetated corridor ranging from 25 to 200 feet wide, measured horizontally, from the defined boundaries of the wetland, per "Table 3.1, Vegetated Corridor Widths," and "Appendix C, Natural Resource Assessments," of the CWS "Design and Construction Standards." Wetland locations may include but are not limited to those areas identified as wetlands in "Wetland Inventory and Assessment for the City of Tigard, Oregon," Fishman Environmental Services, 1994.
- B. **Delineation of wetland boundaries.** Precise boundaries may vary from those shown on wetland maps; specific delineation of wetland boundaries may be necessary. Wetland delineation will be done by qualified professionals at the applicant's expense.

18.775.060 Expiration of Approval—Standards for Extension of Time

- A. **Voiding of permit.** Approval of a sensitive lands permit shall be void if:
 1. Substantial construction of the approved plan has not begun within a one-and-one-half year period;
or
 2. Construction on the site is a departure from the approved plan.
- B. **Granting of extension.** The director shall, upon written request by the applicant and payment of the required fee, grant an extension of the approval period not to exceed one year, provided that:
 1. No changes are made on the original plan as approved by the approval authority;

2. The applicant can show intent of initiating construction of the site within the one year extension period; and
 3. There have been no changes to the applicable comprehensive plan policies and ordinance provisions on which the approval was based.
- C. Notice of the decision. Notice of the decision shall be provided to the applicant. The director's decision may be appealed by the applicant as provided by 18.390.040.G and H.

18.775.070 Sensitive Land Permits

- A. Permits required. An applicant, who wishes to develop within a sensitive area, as defined in Chapter 18.775, must obtain a permit in certain situations. Depending on the nature and intensity of the proposed activity within a sensitive area, either a Type II or Type III permit is required, as delineated in 18.775.020.F and G. The approval criteria for various kinds of sensitive areas, e.g., special flood hazard area~~floodplain~~, are presented in subsections B through E of this section.
- B. Within the 100-year floodplain~~special flood hazard area~~. The hearings officer shall approve, approve with conditions or deny an application request within the ~~100-year floodplain~~ special flood hazard area based upon findings that all of the following criteria have been satisfied:
1. Compliance with all of the applicable requirements of this title;
 2. Land form alterations shall preserve or enhance the special flood hazard area ~~floodplain~~ storage function and maintenance of the zero-foot rise floodway shall not result in any encroachments, including fill, new construction, substantial improvements and other development unless certified by a registered professional engineer that the encroachment will not result in any increase in flood levels during the base flood discharge;
 3. Land form alterations or developments within the ~~100-year floodplain~~ special flood hazard area shall be allowed only in areas designated as commercial or industrial on the comprehensive plan land use map, except that alterations or developments associated with community recreation uses, utilities, or public support facilities as defined in Chapter 18.120 of the community development code shall be allowed in areas designated residential subject to applicable zoning standards;
 4. Where a land form alteration or development is permitted to occur within the special flood hazard area~~floodplain~~ it will not result in any increase in the water surface elevation of the 100-year flood;
 5. The land form alteration or development plan includes a pedestrian/bicycle pathway in accordance with the adopted pedestrian/bicycle pathway plan, unless the construction of said pathway is deemed by the hearings officer as untimely;
 6. Pedestrian/bicycle pathway projects within the special flood hazard area~~floodplain~~ shall include a wildlife habitat assessment that shows the proposed alignment minimizes impacts to significant wildlife habitat while balancing the community's recreation and environmental educational goals;
 7. The necessary U.S. Army Corps of Engineers and State of Oregon Land Board, Division of State Lands, and CWS permits and approvals shall be obtained; and
 8. Where land form alterations and/or development are allowed within and adjacent to the special flood hazard area~~100-year floodplain~~, the city shall require the consideration of dedication of

sufficient open land area within and adjacent to the special flood hazard area~~-floodplain~~ in accordance with the comprehensive plan. This area shall include portions of a suitable elevation for the construction of a pedestrian/bicycle pathway within the special flood hazard area~~-floodplain~~ in accordance with the adopted pedestrian/bicycle pathway plan.

- C. With steep slopes. The appropriate approval authority shall approve, approve with conditions or deny an application request for a sensitive lands permit on slopes of 25% or greater or unstable ground based upon findings that all of the following criteria have been satisfied:
1. Compliance with all of the applicable requirements of this title;
 2. The extent and nature of the proposed land form alteration or development will not create site disturbances to an extent greater than that required for the use;
 3. The proposed land form alteration or development will not result in erosion, stream sedimentation, ground instability, or other adverse on-site and off-site effects or hazards to life or property;
 4. The structures are appropriately sited and designed to ensure structural stability and proper drainage of foundation and crawl space areas for development with any of the following soil conditions: wet/high water table; high shrink-swell capability; compressible/organic; and shallow depth-to-bedrock; and
 5. Where natural vegetation has been removed due to land form alteration or development, the areas not covered by structures or impervious surfaces will be replanted to prevent erosion in accordance with Chapter 18.745, Landscaping and Screening.
- D. Within drainageways. The appropriate approval authority shall approve, approve with conditions or deny an application request for a sensitive lands permit within drainageways based upon findings that all of the following criteria have been satisfied:
1. Compliance with all of the applicable requirements of this title;
 2. The extent and nature of the proposed land form alteration or development will not create site disturbances to an extent greater than that required for the use;
 3. The proposed land form alteration or development will not result in erosion, stream sedimentation, ground instability, or other adverse on-site and off-site effects or hazards to life or property;
 4. The water flow capacity of the drainageway is not decreased;
 5. Where natural vegetation has been removed due to land form alteration or development, the areas not covered by structures or impervious surfaces will be replanted to prevent erosion in accordance with Chapter 18.745, Landscaping and Screening;
 6. The drainageway will be replaced by a public facility of adequate size to accommodate maximum flow in accordance with the adopted 1981 Master Drainage Plan;
 7. The necessary U.S. Army Corps of Engineers and State of Oregon Land Board, Division of State Lands, and CWS approvals shall be obtained;

8. Where land form alterations and/or development are allowed within and adjacent to the *special flood hazard area*~~100-year floodplain~~, the city shall require the consideration of dedication of sufficient open land area within and adjacent to the *special flood hazard area*~~floodplain~~ in accordance with the comprehensive plan. This area shall include portions of a suitable elevation for the construction of a pedestrian/bicycle pathway within the *special flood hazard area*~~floodplain~~ in accordance with the adopted pedestrian bicycle pathway plan.
- E. Within wetlands. The director shall approve, approve with conditions or deny an application request for a sensitive lands permit within wetlands based upon findings that all of the following criteria have been satisfied:
1. Compliance with all of the applicable requirements of this title;
 2. The proposed land form alteration or development is neither on wetland in an area designated as significant wetland on the comprehensive plan *special flood hazard area*~~floodplain~~ and wetland map nor is within the vegetative corridor established per “Table 3.1 Vegetative Corridor Widths” and “Appendix C: Natural Resources Assessments” of the CWS “Design and Construction Standards,” for such a wetland;
 3. The extent and nature of the proposed land form alteration or development will not create site disturbances to an extent greater than the minimum required for the use;
 4. Any encroachment or change in on-site or off-site drainage which would adversely impact wetland characteristics have been mitigated;
 5. Where natural vegetation has been removed due to land form alteration or development, erosion control provisions of the Surface Water Management program of Washington County must be met and areas not covered by structures or impervious surfaces will be replanted in like or similar species in accordance with Chapter 18.745, Landscaping and Screening;
 6. All other sensitive lands requirements of this chapter have been met;
 7. The necessary U.S. Army Corps of Engineers and State of Oregon Land Board, Division of State Lands, and CWS approvals shall be obtained;
 8. The provisions of Chapter 18.790, Tree Removal, shall be met;
 9. Physical limitations and natural hazards, *special flood hazard area*~~floodplains~~ and wetlands, natural areas, and parks, recreation and open space policies of the comprehensive plan have been satisfied. (Ord. 12-09 §1; Ord. 09-11)

18.775.080 Application Submission Requirements

All applications for uses and activities identified in 18.775.020.A through G shall be made on forms provided by the director and must include the following information in graphic, tabular and/or narrative form. The specific information on each of the following is available from the director:

- A. A CWS stormwater connection permit;
- B. A site plan;

- C. A grading plan;
- D. An urban forestry plan per Chapter 18.790 (for 18.775.020.F and G); and
- E. A landscaping plan. (Ord. 12-09 §1)

18.775.090 Special Provisions for Development within Locally Significant Wetlands and Along the Tualatin River, Fanno Creek, Ball Creek, and the South Fork of Ash Creek

- A. In order to address the requirements of Statewide Planning Goal 5 (Natural Resources) and the safe harbor provisions of the Goal 5 administrative rule (OAR 666-023-0030) pertaining to wetlands, all wetlands classified as significant on the City of Tigard “Wetlands and Streams Corridors Map” are protected. No land form alterations or developments are allowed within or partially within a significant wetland, except as allowed/approved pursuant to Section 18.775.130.
- B. In order to address the requirements of Statewide Planning Goal 5 (Natural Resources) and the safe harbor provisions of the Goal 5 administrative rule (OAR 660-023-0030) pertaining to riparian corridors, a standard setback distance or vegetated corridor area, measured horizontally from and parallel to the top of the bank, is established for the Tualatin River, Fanno Creek, Ball Creek, and the South Fork of Ash Creek.
 - 1. The standard width for “good condition” vegetated corridors along the Tualatin River is 75 feet, unless wider in accordance with CWS “Design and Construction Standards,” or modified in accordance with Section 18.775.130. If all or part of a locally significant wetland (a wetland identified as significant on the City of Tigard “Wetlands and Streams Corridors Map”) is located within the 75-foot setback area, the vegetated corridor is measured from the upland edge of the associated wetland.
 - 2. The standard width for “good condition” vegetated corridors along Fanno Creek, Ball Creek, and the South Fork of Ash Creek is 50 feet, unless wider in accordance with CWS “Design and Construction Standards”, or modified in accordance with Section 18.775.130. If all or part of a locally significant wetland (a wetland identified as significant on the City of Tigard “Wetlands and Streams Corridors Map”) is located within the 50-foot setback area, the vegetated corridor is measured from the upland edge of the associated wetland.
 - 3. The minimum width for “marginal or degraded condition” vegetated corridors along the Tualatin River, Fanno Creek, Ball Creek, and the South Fork of Ash Creek is 50% of the standard width, unless wider in accordance with CWS “Design and Construction Standards,” or modified in accordance with Section 18.775.130.
 - 4. The determination of corridor condition shall be based on the natural resource assessment guidelines contained in the CWS “Design and Construction Standards.”
 - 5. The standard setback distance or vegetated corridor area applies to all development proposed on property located within or partially within the vegetated corridors, except as allowed below:
 - a. Roads, pedestrian or bike paths crossing the vegetated corridor from one side to the other in order to provide access to the sensitive area or across the sensitive area, as approved by the city per Section 18.775.070 and by CWS “Design and Construction Standards”;
 - b. Utility/service provider infrastructure construction (i.e. storm, sanitary sewer, water, phone, gas, cable, etc.), if approved by the city and CWS;

- c. A pedestrian or bike path, not exceeding 10 feet in width and meeting the CWS “Design and Construction Standards”;
 - d. Grading for the purpose of enhancing the vegetated corridor, as approved by the city and CWS;
 - e. Measures to remove or abate hazards, nuisances, or fire and life safety violations, as approved by the regulating jurisdiction;
 - f. Enhancement of the vegetated corridor for water quality or quantity benefits, fish, or wildlife habitat, as approved by the city and CWS;
 - g. Measures to repair, maintain, alter, remove, add to, or replace existing structures, roadways, driveways, utilities, accessory uses, or other developments provided they are consistent with city and CWS regulations, and do not encroach further into the vegetated corridor or sensitive area than allowed by the CWS “Design and Construction Standards.”
6. Land form alterations or developments located within or partially within the Goal 5 safeharbor setback or vegetated corridor areas established for the Tualatin River, Fanno Creek, Ball Creek, and the South Fork of Ash Creek that meet the jurisdictional requirements and permit criteria of the CWS, U.S. Army Corps of Engineers, Division of State Lands, and/or other federal, state, or regional agencies, are not subject to the provisions of this subsection B, except where the:
- a. Land form alterations or developments are located within or partially within a good condition vegetated corridor, as defined in paragraphs 1 and 2 of this subsection B;
 - b. Land form alterations or developments are located within or partially within the minimum width area established for marginal or a degraded condition vegetated corridor, as defined in paragraph 3 of this subsection B.

These exceptions reflect instances of the greater protection of riparian corridors provided by the safe harbor provisions of the Goal 5 administrative rule.

18.775.100 Adjustments to Underlying Zone Standards

Adjustments to dimensional standards of the underlying zone district may be approved by the Planning Director when necessary to further the purpose of this section.

- A. Adjustment option. The planning director may approve up to 50% adjustment to any dimensional standard (e.g., setback height or lot area) of the underlying zone district to allow development consistent with the purposes of this section. The purpose of the adjustment process is to reduce adverse impacts on wetlands, stream corridors, fish and wildlife habitat, water quality and the potential for slope of flood hazards.
- B. Adjustment criteria. A special adjustment to the standards in the underlying zoning district may be requested under Type II procedure when development is proposed within or adjacent to the vegetated corridor area or within or adjacent to areas designated as “strictly limit” or “moderately limit” on the City of Tigard “Significant Habitat Areas Map.” Verification of significant habitat boundaries shall be done in accordance with the procedures described in Section 18.775.140. In order for the director to approve a dimensional adjustment to standards in the underlying zoning district, the applicant shall demonstrate that all the following criteria are fully satisfied:

1. The adjustment is the minimum necessary to allow a permitted use, while at the same time minimizing disturbance to a water resource, riparian setback area or water quality buffer;
 2. Explicit consideration has been given to maximizing vegetative cover, minimizing excavation and minimizing impervious surface area on buildable land;
 3. Design options have been considered to reduce the impacts of development, including but not limited to multi-story construction, siting of the residence close to the street to reduce driveway distance, maximizing the use of native landscaping materials, minimizing parking areas, minimizing hydrologic impacts and garage space;
 4. In no case shall the impervious surface area as a single-family residence (including the building footprint, driveway and parking areas, accessory structures, swimming pools and patios) exceed 3,000 square feet of a vegetated corridor area;
 5. Assurances are in place to guarantee that future development will not encroach further on land under the same ownership within the vegetated corridor area;
 6. Protected vegetated corridor, significant habitat areas and adjacent buffer areas must be:
 - a. Placed in a non-buildable tract or protected with a restrictive easement;
 - b. Restoration and enhancement of habitat and buffer areas required, including monitoring for five years.
- C. Reduction to minimum density requirements for developments that include inventoried significant habitat areas. The minimum number of units required by Section 18.510.040 (Density Calculation) may be waived if necessary to ensure that impacts on habitat areas are minimized.
1. Approval criteria. Reduction requests will be approved if the review body finds that the applicant has shown that the following criteria are met:
 - a. An area of the property lot or parcel to be developed has been identified on the “Significant Habitat Areas Map.” Verification of significant habitat boundaries shall be done in accordance with the procedures described in Section 18.775.140.
 - b. The proposal will be consistent with the character of the neighboring area.
 - c. This provision may only be applied to properties that were inside the Metro Urban Growth Boundary (UGB) on January 1, 2002.
 - d. The proposal will directly result in the protection of significant habitat areas through placement in a non-buildable tract or protected with a restrictive easement.
 2. Procedure.
 - a. The amount of reduction in the minimum density shall be calculated by subtracting the number of square feet of inventoried significant habitat that is permanently protected from the total number of square feet used to calculate the minimum density requirement.

- b. Requests for a reduction are processed as Type II procedure along with the development proposal for which the application has been filed.

The planning director may impose any reasonable condition necessary to mitigate identified impacts resulting from development on otherwise unbuildable land. (Ord. 06-20)

18.775.110 Density Transfer

Density may be transferred from vegetated corridor areas as provided in Sections 18.715.020 through 18.715.030.

18.775.120 Variances to Section 18.775.090 Standards

Variances to the use provisions of Section 18.775.090 are not permitted. Variances from measurable (dimensional) provisions of this section shall be discouraged and may be considered only as a last resort.

- A. Type II variance option. The hearings officer shall hear and decide variances from dimensional provisions of this chapter under Type III procedure, in accordance with the criteria in Chapter 18.370 of the zoning ordinance.
- B. Additional criteria. In addition to the general variance criteria described in Chapter 18.370, all the following additional criteria must be met to grant a variance to any dimensional provision of this chapter:
 - 1. The variance is necessary to allow reasonable economic use of the subject parcel of land, which is owned by the applicant, and which was not created after the effective date of this chapter;
 - 2. Strict application of the provisions of this chapter would otherwise result in the loss of a buildable site for a use that is permitted outright in the underlying zoning district, and for which the applicant has submitted a formal application;
 - 3. The applicant has exhausted all options available under this chapter to relieve the hardship;
 - 4. Based on review of all required studies identical to those described in Section 3.02.5.c Tier 2 Alternatives Analysis of the CWS “Design and Construction Standards,” the variance is the minimum necessary to afford relief, considering the potential for increased flood and erosion hazard, and potential adverse impacts on native vegetation, fish and wildlife habitat, and water quality;
 - 5. Based on review of all required studies identical to those described in Section 3.02.5 of the CWS “Design and Construction Standards,” no significant adverse impacts on water quality, erosion or slope stability will result from approval of this hardship variance, or these impacts have been mitigated to the greatest extent possible;
 - 6. Loss of vegetative cover shall be minimized. Any lost vegetative cover shall be replaced on-site, on a square foot for square foot basis, by native vegetation.

18.775.130 Plan Amendment Option

Any owner of property affected by the Goal 5 safeharbor (1) protection of significant wetlands and/or (2) vegetated areas established for the Tualatin River, Fanno Creek, Ball Creek, and the South Fork of Ash

Creek may apply for a quasi-judicial comprehensive plan amendment under Type IV procedure. This amendment must be based on a specific development proposal. The effect of the amendment would be to remove Goal 5 protection from the property, but not to remove the requirements related to the CWS Stormwater Connection Permit, which must be addressed separately through an alternatives analysis, as described in Section 3.02.5 of the CWS “Design and Construction Standards.” The applicant shall demonstrate that such an amendment is justified by either of the following:

- A. ESEE analysis. The applicant may prepare an environmental, social, economic and energy (ESEE) consequences analysis prepared in accordance with OAR 660-23-040.
 1. The analysis shall consider the ESEE consequences of allowing the proposed conflicting use, considering both the impacts on the specific resource site and the comparison with other comparable sites within the Tigard Planning Area;
 2. The ESEE analysis must demonstrate to the satisfaction of the Tigard City Council that the adverse economic consequences of not allowing the conflicting use are sufficient to justify the loss, or partial loss, of the resource;
 3. In particular, ESEE analysis must demonstrate why the use cannot be located on buildable land, consistent with the provisions of this chapter, and that there are no other sites within the Tigard Planning Area that can meet the specific needs of the proposed use;
 4. The ESEE analysis shall be prepared by a team consisting of a wildlife biologist or wetlands ecologist and a land use planner or land use attorney, all of whom are qualified in their respective fields and experienced in the preparation of Goal 5 ESEE analysis;
 5. If the application is approved, then the ESEE analysis shall be incorporated by reference into the Tigard Comprehensive Plan, and the “Tigard Wetland and Stream Corridor Map” shall be amended to remove the site from the inventory.
- B. Determination of “insignificance.” In this case, the applicant must demonstrate that the sensitive area site(s) no longer meet(s) the applicable significance threshold defined by the Goal 5 administrative rule, relative to other comparable resources within the Tigard Planning Area.
 1. Significance thresholds are described and applied in the addendum to the City of Tigard Local Wetlands Inventory adopted by reference as part of this chapter.
 2. In considering this claim, the city council shall determine that the decline in identified resource values did not result from a violation of this chapter or any other provision of the Tigard Community Development Code.

18.775.140 Significant Habitat Areas Map Verification Procedures

The significant habitat areas map shall be the basis for determining the general location of significant habitat areas on or adjacent to the site.

- A. Applicants who concur that the significant habitat areas map is accurate shall submit the following information to serve as the basis for verifying the boundaries of inventoried habitat areas:
 1. Submission requirements.

- a. A detailed property description;
 - b. A scale map of the property showing the locations of significant habitat areas, any existing built area, wetlands or water bodies, Clean Water Services' vegetated corridor, the **special flood hazard area**~~100-year floodplain~~, the 1996 flood inundation line, and contour lines (two-foot intervals for slope less than 15% and 10-foot intervals for slopes 15% or greater); and
 - c. A current aerial photograph of the property.
2. Decision process. The planning director's decision shall be based on consideration of submitted information, site visit information, and other factual information. Should the applicant disagree with the planning director's determination on the location of significant habitat areas on the property, the precise boundaries shall be verified by the applicant in accordance with the detailed delineation methodology outlined in subsection B of this section.
- B. Applicants who believe that the map is inaccurate shall submit a detailed delineation conducted by a qualified professional in accordance with the following methodology to verify the precise boundaries of the inventoried habitat areas by means of a Type II procedure.
1. Verifying boundaries of inventoried riparian habitat. Locating habitat and determining its riparian habitat class is a four-step process:
 - a. Locate the water feature that is the basis for identifying riparian habitat.
 - i. Locate the top of bank of all streams, rivers, and open water within 200 feet of the property.
 - ii. Locate the **special flood hazard area**~~100-year floodplain~~ or 1996 flood inundation line, whichever is greater, within 100 feet of the property.
 - iii. Locate all wetlands within 150 feet of the property. Identified wetlands on the property shall be further delineated consistent with methods currently accepted by the Oregon Division of State Lands and the U.S. Army Corps of Engineers.
 - b. Identify the vegetative cover status of all areas on the property that are within 200 feet of the top of bank of streams, rivers, and open water, are wetlands or are within 150 feet of wetlands, and are flood areas and within 100 feet of flood areas.
 - i. Vegetative cover status shall be as identified on the metro vegetative cover map.
 - ii. The vegetative cover status of a property may be adjusted only if (a) the property was developed prior to the time the regional program was approved; or (b) an error was made at the time the vegetative cover status was determined. To assert the latter type of error, applicants shall submit an analysis of the vegetative cover on their property using summer 2002 aerial photographs and the following definition of vegetative cover types in Table 18.775.1.

Table 18.775.1
Definitions of Vegetative Cover Types

Type	Definition
Low structure vegetation or open soils	Areas that are part of a contiguous area one acre or larger of grass, meadow, croplands, or areas of open soils located within 300 feet of a

	surface stream (low structure vegetation areas may include areas of shrub vegetation less than one acre in size if they are contiguous with areas of grass, meadow, croplands, orchards, Christmas tree farms, holly farms, or areas of open soils located within 300 feet of a surface stream and together form an area of one acre in size or larger).
Woody vegetation	Areas that are part of a contiguous area one acre or larger of shrub or open or scattered forest canopy (less than 60% crown closure) located within 300 feet of a surface stream.
Forest canopy	Areas that are part of a contiguous grove of trees one acre or larger in area with approximately 60% or greater crown closure, irrespective of whether the entire grove is within 200 feet of the relevant water feature.

- c. Determine whether the degree that the land slope upward from all streams, rivers, and open water within 200 feet of the property is greater than or less than 25% (using the vegetated corridor measurement methodology as described in Clean Water Services Design and Construction Standards); and
- d. Identify the riparian habitat classes applicable to all areas on the property using Table 18.775.2 and Table 18.775.3.

Table 18.775.2
Method for Locating Boundaries of Class I and II Riparian Areas

Distance in feet from water feature	Development/Vegetation Status ¹			
	Developed areas not providing vegetative cover	Low structure vegetation or open soils	Woody vegetation (shrub and scattered forest canopy)	Forest canopy (closed to open forest canopy)
Surface streams				
0-50	Class II	Class I	Class I	Class I
50-100		Class II ²	Class I	Class I
100-150		Class II ² if slope > 25%	Class II ² if slope > 25%	Class II ²
150-200		Class II ² if slope > 25%	Class II ² if slope > 25%	Class II ² if slope > 25%
Wetlands (Wetland feature itself is a Class I Riparian Area)				
0-100		Class II ²	Class I	Class I
100-150				Class II ²
Flood Areas (Undeveloped portion of flood area is a Class I Riparian Area)				
0-100			Class II ²	Class II ²

¹ The vegetative cover type assigned to any particular area was based on two factors: the type of vegetation observed in aerial photographs and the size of the overall contiguous area of vegetative cover to which a particular piece of vegetation belonged. As an example of how the categories were assigned, in order to qualify as a “forest canopy” the forested area had to be part of a larger patch of forest land at least one acre in size.

² Areas that have been identified as habitats of concern, as designated on the Metro Habitats of Concern Map (on file in the Metro Council office), shall be treated as Class I riparian habitat areas in all cases, subject to the provision of additional information that establishes that they do not meet the criteria used to identify habitats of concern as described in Metro’s Technical Report for Fish and Wildlife. Examples of habitats of concern include: Oregon white oak woodlands, bottomland hardwood forests, wetlands, native grasslands, riverine islands or deltas, and important wildlife migration corridors.

Table 18.775.3
Tualatin Basin “Limit” Decision

	Conflicting Use Category
--	--------------------------

Resource Category	High Intensity Urban	Other Urban	Future Urban (2002 and 2004 additions)	Non-Urban (outside UGB)
Class I & II Riparian Inside Vegetated Corridor	Moderately Limit	Strictly Limit	Strictly Limit	N/A
Class I & II Riparian Outside Vegetated Corridor	Moderately Limit	Moderately Limit	Moderately Limit	Moderately Limit
All other Resource Areas	Lightly Limit	Lightly Limit	Lightly Limit	Lightly Limit
Inner Impact Area	Lightly Limit	Lightly Limit	Lightly Limit	Lightly Limit
Outer Impact Area	Lightly Limit	Lightly Limit	Lightly Limit	Lightly Limit

* Vegetated corridor standards are applied consistently throughout the District; in HIU areas they supersede the “limit” decision.

2. Verifying boundaries of inventoried upland habitat was identified based on the existence of contiguous patches of forest canopy, with limited canopy openings. The “forest canopy” designation is made based on analysis of aerial photographs as part of determining the vegetative cover status of land within the region. Upland habitat shall be as identified on the Significant Habitat Areas Map unless corrected as provided in this subsection.
 - a. Except as provided below, vegetative cover status shall be as identified on the Metro Vegetative Cover Map used to inventory habitat (available from the Metro Data Resource Center, 600 N.E. Grand Ave., Portland, OR 97232).
 - b. The only allowed corrections to the vegetative cover status of a property area as follows:
 - i. To correct errors made when the vegetative status of an area was determined based on analysis of the aerial photographs used to inventory the habitat. The perimeter of an area delineated as “forest canopy” on the Metro Vegetative Cover Map may be adjusted to more precisely indicate the dripline of the trees within the canopied area provided that no areas providing greater than 60% canopy crown closure are de-classified from the “forest canopy” designation. To assert such errors, applicants shall submit an analysis of the vegetative habitat cover on their property using the aerial photographs that were used to inventory the habitat and the definitions of the different vegetative cover types provided in Table 18.775.1; and
 - ii. To remove tree orchards and Christmas tree farms from inventoried habitat; provided, however, that Christmas tree farms where the trees were planted prior to 1975 and have not been harvested for sale as Christmas trees shall not be removed from the habitat inventory.
 - c. If the vegetative cover status of any area identified as upland habitat is corrected pursuant to subparagraph A.2.b.i of this section to change the status of an area originally identified as “forest canopy,” then such area shall not be considered upland habitat unless it remains part of a forest canopy opening less than one acre in area completely surrounded by an area of contiguous forest canopy. (Ord. 06-20) ■

DCA2016-00002
REQUIRED REGULATORY CHANGES AND FEMA FIRM MAP UPDATE
DEVELOPMENT CODE AMENDMENT

Explanation of Formatting

These text amendments employ the following formatting:

~~Strikethrough~~ - Text to be deleted

[Bold, Underline and Italic] – Text to be added

Chapter 18.735
MARIJUANA FACILITIES

Sections:

- 18.735.010 Purpose**
- 18.735.020 Applicability**
- 18.735.030 Compliance and Enforcement**
- 18.735.040 Development Standards**

18.735.010 Purpose

The purpose of this chapter is to:

- A. Protect the general health, safety, property, and welfare of the public;
- B. Balance the right of individuals to produce and access marijuana and marijuana derivatives consistent with state law, with the need to minimize adverse impacts to nearby properties that may result from the production, storage, distribution, sale, and/or use of marijuana and derivatives;
- C. Prevent or reduce criminal activity that may result in harm to persons or property;
- D. Prevent or reduce diversion of state-licensed marijuana and marijuana derivatives to minors; and
- E. Minimize impacts to the city's public safety services by reducing calls for service. (Ord. 15-07 §3)

18.735.020 Applicability

- A. Relationship to other standards. The regulations within this chapter are in addition to base zone standards. Sites with overlay zones, plan districts, inventoried hazards, and/or sensitive lands are subject to additional regulations. Specific uses or development types may also be subject to regulations set forth elsewhere in this title.
- B. When provisions apply. The provisions of this chapter shall apply to all marijuana facilities requiring a state license or registration. (Ord. 15-07 §3)

18.735.030 Compliance and Enforcement

- A. Procedure. All marijuana facilities requiring a state license or registration, and public places of assembly where marijuana is consumed, shall demonstrate minimal compliance with these standards through a Type I procedure as set forth in Section 18.390.030 of this title, using approval criteria set forth in subsection B of this section.
- B. Approval criteria. Development subject to the provisions of this chapter shall demonstrate compliance with all standards set forth in Section 18.735.040 of this chapter.
- C. Documentation. The following provisions shall apply at the time of minimum compliance review or a request for enforcement:
 - 1. When processing a minimum compliance review, the city may accept an evaluation and explanation certified by a registered engineer or architect, as appropriate, that the proposed development will meet the off-site odor impact standard. The evaluation and explanation shall provide a description of the use or activity, equipment, processes and the mechanisms, or equipment used to avoid or mitigate off-site impacts.
 - 2. If the city does not have the equipment or expertise to measure and evaluate a specific complaint regarding off-site impacts, it may request assistance from another agency or may contract with an independent expert to perform the necessary measurements. The city may accept measurements made by an independent expert hired by the controller or operator of the off-site impact source. (Ord. 15-07 §3)

18.735.040 Development Standards

Development subject to the provisions of this chapter shall demonstrate compliance with all of the following standards:

- A. The proposed development complies with all applicable state requirements.
- B. The proposed use is allowed in the underlying zone and complies with all applicable requirements of this title.
- C. The proposed development meets all of the following site location restrictions. All distances shall be measured at the closest property lines between the proposed site and nearest lot or parcel containing the specified use or characteristic.
 - 1. Marijuana facilities are prohibited within the MU-CBD zone.
 - 2. The proposed development is not within 1,000 feet of a public or private elementary school, secondary school, or career school attended primarily by minors.
 - 3. Sale-oriented retail and wholesale sales uses open to the public shall be subject to the following restrictions:
 - a. Must be located on a lots or parcel with frontage along Pacific Highway (Oregon Route 99W);
 - b. Shall not be located within ~~2,000~~ 1,000 feet of another state-licensed retail or wholesale marijuana facility within or outside of city limits; and

- c. Shall not be located within 500 feet of a public library or Tigard parks and recreation zone.
- 4. Non-retail uses and wholesale sales uses not open to the public shall not be located within 500 feet of one or more of the following zones or facilities:
 - a. Residential zone;
 - b. Parks and recreation zone;
 - c. Public library.
- D. Hours of commercial operation shall be limited to the hours between 10:00 am and 8:00 pm. General industrial uses with no on-site retail activity are exempt from this restriction.
- E. Primary entrances shall be clearly visible from Pacific Highway (Oregon Route 99W).
- F. The proposed development shall be located inside a permanent building and may not be located within a trailer, shipping container, cargo container, tent, or motor vehicle. Outdoor storage of merchandise, plants, or other materials is not allowed.
- G. Parking lots, primary entrances, and exterior walkways shall be illuminated with downward facing security lighting to provide after-dark visibility to employees and patrons. Fixtures shall be located so that light patterns overlap at a height of seven feet with a minimum illumination level of 1.0 footcandles at the darkest spot on the ground surface.
- H. Drive-through marijuana facilities are prohibited.
- I. The proposed development shall confine all marijuana odors and other objectionable odors to levels undetectable at the property line.
- J. Marijuana or marijuana product shall not be visible from the exterior of the building or structure. (Ord. 15-07 §3) ■

Dr. Gene & Vivian Davis
10875 S.W. 89th Ave
Tigard, Oregon 97223 USA
: 503 246-5862
Fax: 503 977-9343
Email: fmf.india@yahoo.com

August 15th, 2016

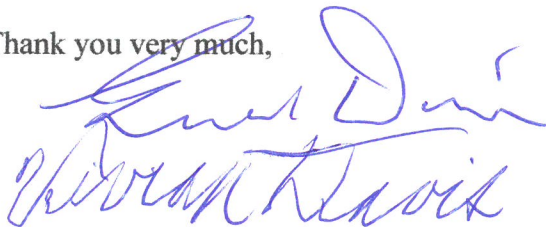
Dear Planning Commission and City Council:

In 1986 the city of Tigard put in a 16" water main paralleling the Southern Pacific Railroad at SW North Dakota just 135 feet from where Ash Creek flows into Fanno Creek (see red line on map for water main and yellow line for creeks). This was done without any engineering as your city files clearly reveal. Since that time, Ash Creek has silted in and deposited 30" or so of sediment. This sediment is pretty much from the water main to Oak Street but is most evident in the two, 12' wide by 9' high box culverts under Hwy 217 next to our property. This is about a half of a mile upstream.

City manager, Marty Wine, on October 23rd, 2014, gave me written permission to lower that 16" water main at my expense. I am willing to do it if ever I can sell enough property to get enough money to make it happen. This water main is causing flooding upstream and impacting the FEMA floodplain water levels on our property (see blue area on map).

Please do not change and increase the FEMA floodplain model until this problem is solved. The flooding and increased high water is being caused by the improper installation of the 16" city water main and will be alleviated when that issue is solved. To take away land value from upstream owners, in this case myself, is not fair and is not necessary. Please do not adopt the updated FEMA Firm Map without considering correcting the map when the water main is lowered.

Thank you very much,

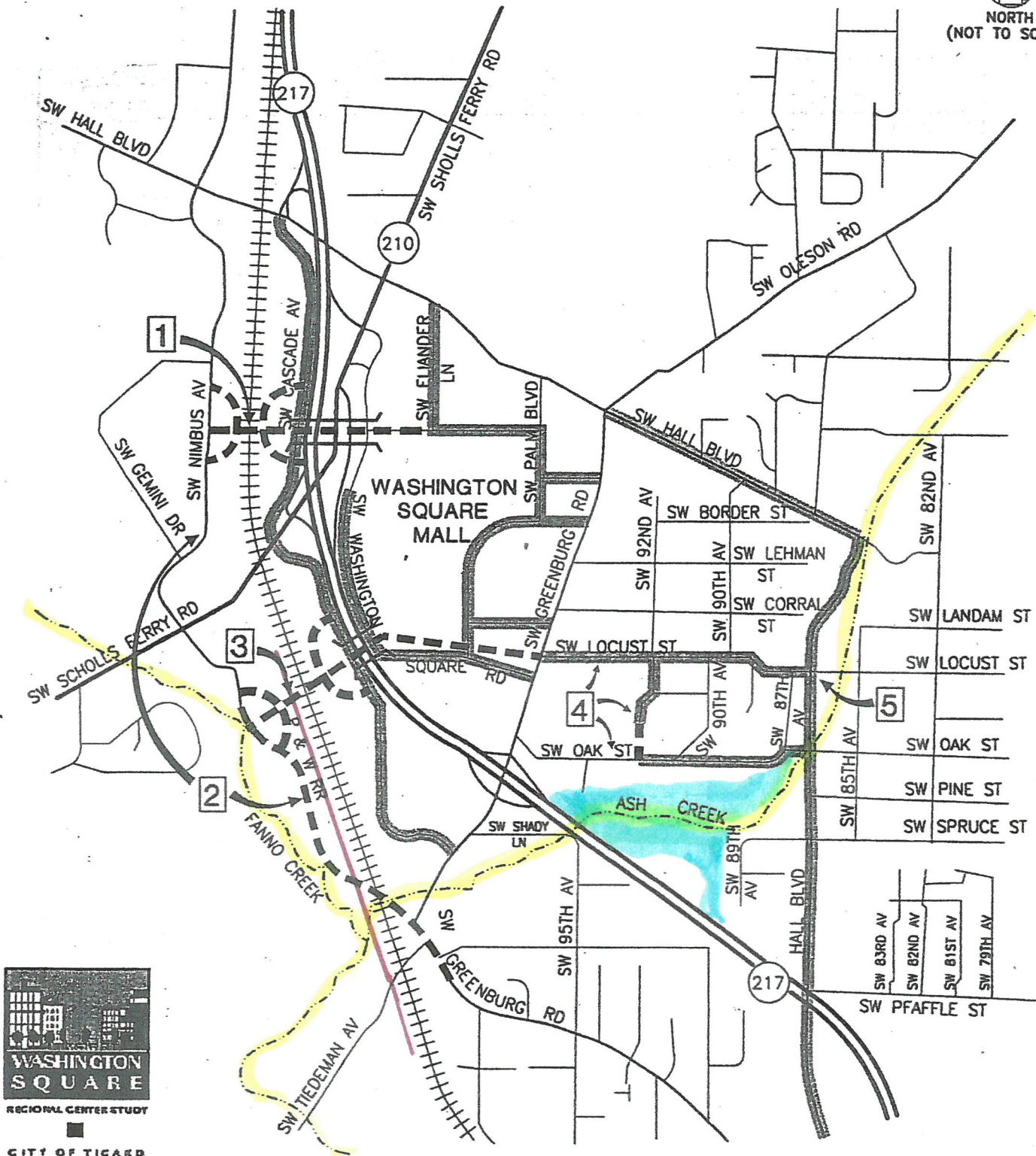


Dr. Gene and Vivian Davis

DON'T UPDATE FEMA MAP

August 15th, 2016

- (RED) 16" City water main
- (YELLOW) Fanno and Ash Creeks
- (BLUE) Area of flooding due to improper installation of water main



**CITY OF TIGARD
PLANNING COMMISSION
Meeting Minutes
August 15, 2016**

CALL TO ORDER

President Fitzgerald called the meeting to order at 7:00 p.m. The meeting was held in the Tigard Civic Center, Town Hall, at 13125 SW Hall Blvd.

ROLL CALL

Present: President Fitzgerald
Commissioner Jelinek
Commissioner Lieuallen
Commissioner McDowell
Commissioner Middaugh
Alt. Commissioner Mooney
Commissioner Muldoon
Commissioner Schmidt

Absent: Vice President Feeney; Alt. Commissioner Enloe; Commissioner Hu

Staff Present: Tom McGuire, Assistant Community Development Director; Agnes Kowacz, Associate Planner; -Joe Patton, Sr. Admin. Specialist

COMMUNICATIONS – President Fitzgerald reported she attended the Tigard Triangle CAC meeting and they are continuing to work ahead.

CONSIDER MINUTES

July 18, 2016 Meeting Minutes: President Fitzgerald asked if there were any additions, deletions, or corrections to the July 18 minutes; there being none, Fitzgerald declared the minutes approved as submitted.

OPEN PUBLIC HEARING

President Fitzgerald opened the public hearing.

**REQUIRED REGULATORY CHANGES AND FEMA FIRM MAP UPDATE
DEVELOPMENT CODE AMENDMENT (DCA) 2016-00002)**

REQUEST: The City of Tigard proposes legislative amendments to the Tigard Development Code (TDC). The proposed amendments include: (1) Adopt updated Flood Insurance Maps; and (2) Update floodplain regulations (Chapter 18.775 Sensitive Lands) relating to critical facilities and add a severability clause; and (3) Change marijuana facilities (Chapter 18.735) spacing requirements between facilities from 2,000 feet to 1,000 feet. **LOCATION:** Citywide. **APPLICABLE REVIEW CRITERIA:** Statewide Planning Goals 1 (Citizen Involvement), 2

(Land Use Planning), 7(Areas subject to Natural Disasters and Hazards), and 9 (Economic Development); ORS 475B (Cannabis Regulation); METRO's Urban Growth Management Functional Plan Titles 3, and 8; Comprehensive Plan Goals 1.1.2, 2.1.2, 2.1.3, 2.1.6, 2.1.11, 2.1.21, 2.1.23, 7.1.7, 7.1.8, 7.1.9, 9.1.3, and 9.1.12; and Tigard Development Code Chapters 18.380 and 18.390.

STAFF REPORT

Agnes Kowacz, City of Tigard Associate Planner, gave the staff report (staff reports are available to the public online one week before public hearings). She gave a brief overview of the required regulatory changes and FEMA FIRM map updates. The National Flood Insurance Program (NFIP) was established in 1968. Jurisdictions have six months to adopt the FIRM maps and corresponding Flood Insurance Study (FIS) in order to participate, or have its citizens eligible to participate, in the discounted NFIP. FEMA periodically updates the floodplain maps and amends the NFIP. A Community Assistance Visit (CAV) occurred in September 2014 and identified that Tigard's Code lacked Critical Facilities regulations and a severability clause. In order for Tigard to continue its participation in the NFIP it must adopt, by November 4, 2016, the updated FIRM and corresponding FIS, regulations specified by the CAV, and additional items identified in the FEMA email (Exhibit A). The draft Tigard Development Code (TDC – Exhibit B) shows the proposed changes which she briefly described. Also distributed prior to the start of the meeting is a letter from Dr. Davis (Exhibit C).

Ballot Measure 91 legalized the use and possession of recreational marijuana on November 4, 2014. Tigard adopted new regulations for handling marijuana related businesses on April 21, 2015. HB3400A established statewide regulations and recognized marijuana as a farm crop. It also prohibits local jurisdictions from requiring a larger buffer than 1,000 feet between retail marijuana facilities. The adoption of the revision is required to comply with state law.

QUESTIONS

Can you tell me about how the FEMA maps were developed, the process to appeal the decision? *FEMA's process is to hire a contractor to develop a hydraulic model that FEMA will use to develop their maps. FEMA does have an appeal process and this current process started in 2008 and that process has been completed for these revisions. FEMA and the county previously notified affected property owners.*

What happens if the City chooses not to adopt the maps? *The City would be dropped from the National Flood Insurance Program as would Tigard property owners. They would have to pay full cost for flood insurance.*

TESTIMONY IN FAVOR – None.

TESTIMONY IN OPPOSITION –

Cece Dispenza, 11460 SW Dawns Court, voiced frustration regarding the FEMA FIRM process and the NFIP. Her flood insurance went from \$0 per year 25 years ago to the highest risk with premiums of \$1,400 per year due to the NFIP changes. She stated the notice of rate

change can come from your mortgage or insurance company. She has spoken to multiple agencies and has not been able to figure out the reason for the increase. She questioned if Tigard will complete the same process as Beaverton to lower the insurance rates for its citizens.

Dr. Gene Davis, 10875 SW 89th Avenue, lives near Ash Creek. He stated his property had no flooding issues until the water main was installed in 1986. He has received permission to lower the water main and believes lowering it will alleviate the flooding on his property. An analysis of the issue should be conducted before adopting the new maps.

Paul Jackson, 10250 SW Tigard Street, expressed concern about the notice stating the proposed changes may affect the value of your property. He referred to an Oregonian article questioning FEMA's legal authority. *Tom noted there are two separate processes. One is adoption of the new maps. The second involves a lawsuit against FEMA for violation of the Endangered Species Act. It is unknown how the settlement of the case will impact Tigard, but none of the proposed Code changes are affected as they are separate issues.*

QUESTIONS TO STAFF

Why change the definition of the 100 year floodplain? *Special flood hazard areas is the term FEMA uses and in some ways it is a better term. 100 year floodplain can be confusing. Someone that experienced a flood 10 years ago may assume they will not experience another for 90 years. What it actually refers to is the area has a 1% chance to flood in any given year, not the length of time between flooding.*

Can Tigard do anything to change these maps, such as lowering the water main on Dr. Davis' property? *In general no, and the City does not agree that the water main is the cause of the flooding. The City Manager has given Dr. Davis permission to move the water main at his expense if he obtains the proper permits. There are two processes that can take place. A property owner can go to FEMA's website and find an application to appeal and find out the requirements and fees involved. The City could theoretically complete a basin study and based off the results ask for map revisions. All of the evidence would be required and expensive to gather.*

Is there anything Tigard can do to help alleviate some of the costs to citizens such as Beaverton is doing? *Tom noted FEMA has a program called Community Rating System. Depending on the City's level of participation, flood insurance premium rates for floodplain property owners can be reduced up to 45%. Council has not given any direction to formally apply for the program or for the associated expenses.*

PUBLIC HEARING CLOSED

DELIBERATION

Some points – comments:

- The marijuana Code change does not alter Tigard's policy regarding siting, just the distance between retail facilities, making it compliant with the state law.
- Providing more comprehensive information regarding the FEMA map revision process would be helpful to affected property owners. Even though Tigard will not advocate on

behalf of individual property owners, it should advocate for the City as a whole by completing the FEMA process to lower the rates as much as possible.

- For help with the Community Rating System required studies, local agencies such as the U.S. Army Corps of Engineers may be able to help on a volunteer or assisted basis.
- Tigard has to comply with the law and approve the map revisions without control over how the maps are determined. Failure to comply will result in even higher flood insurance rates for the affected property owners.

MOTION

Commissioner Middaugh made the following motion – “I move for approval of the application DCA2016-00002 and adoption of the findings and conditions of approval contained in the staff report, and based on the testimony received, with the addition that staff investigates the ranking system option.” The motion was seconded by Commissioner Lieuallen.

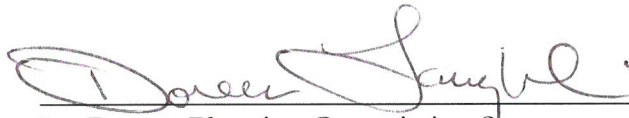
RESULT – All in favor, none opposed.

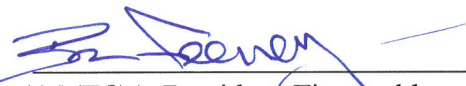
BRIEFING

Agnes gave an overview of upcoming changes to the Code. Changes are needed due to known problems with poor code construction, deferred maintenance and incremental changes. The focus is on terminology, process, administration and reorganization. The first part includes the mandatory changes approved tonight which will be heard by Council on September 27. The "Content" portion will be covered in two packages. The first package will include administrative fixes, new processes, new sections and regulations, and clean-up/miscellaneous. Package two will include terminology and permit review. She discussed the timeline (Exhibit D) which is an ambitious schedule. The goal is final adoption in February 2018. Tom noted there are some controversial issues that could slow the process considerably.

ADJOURNMENT

President Fitzgerald adjourned the meeting at 8:40 p.m.


For: Joe Patton, Planning Commission Secretary


ATTEST: President Fitzgerald
For

Agnes Kowacz

From: Pilkenton, Roxanne <roxanne.reale-pilkenton@fema.dhs.gov>
Sent: Wednesday, August 17, 2016 11:44 AM
To: Agnes Kowacz
Subject: RE: Flood Ordinance

The challenge is with FEMAs definition of development which reads:

Any man-made change to improved or unimproved real estate, including but not limited to buildings or other structures, mining, dredging, filling, grading, paving, excavation or drilling operations or storage of equipment or materials.

Because of the strict definition many of the things that are listed in both 18.775.020.B and 18.775.020.C cannot be exempted; specifically the following:

18.775.020.B

6. Maintenance of floodway excluding re-channeling; except in a water quality sensitive area or vegetated corridor, as defined in the CWS "Design and Construction Standards" or the Statewide Goal 5 vegetated corridor established for the Tualatin River, as defined in Section 18.775.090.

If the maintenance of the floodway includes any of the activities as listed in the definition of development, a flood hazard permit must be required and cannot be outright permitted.

7. Fences; except in the floodway area; a water quality sensitive area or vegetated corridor, as defined in the CSW "Design and Construction Standards"; or the Statewide Goal 5 vegetated corridor established for the Tualatin River, as defined in Section 18.775.090.

Even if the fences are located in the special flood hazard area (versus just the floodway) they are considered a man-made change and would require a flood hazard permit and cannot be outright permitted.

8. Accessory structures which are less than 120 square feet in size; except in the floodway area; a water quality sensitive area or vegetated corridor, as defined in the CSW "Design and Construction Standards"; or the Statewide Goal 5 vegetated corridor established for the Tualatin River, as defined in Section 18.775.090.

Even if the accessory structures are located in the special flood hazard area (versus just the floodway) they are considered a man-made change and would require a flood hazard permit and cannot be outright permitted.

9. Land form alterations involving up to 10 cubic yards of material; except in the floodway area; a water quality sensitive area or vegetated corridor, as defined in the CSW "Design and Construction Standards"; or the Statewide Goal 5 vegetated corridor established for the Tualatin River, as defined in Section 18.775.090.

Land form alterations involving up to 10 cubic yards of material is considered development, a flood hazard permit must be required and cannot be outright permitted.

18.775.020.C

1. Responses to public emergencies, including emergency repairs to public facilities.

Are there provisions in Tigard code that state what an actual emergency is comprised of? And if emergency work is done is it only done during an imminent threat that must be alleviated? Does the Tigard code address that after the emergency is abated that permitting is required to keep the emergency measures in place? Often jurisdictions will issue an emergency permit that includes conditions that within so many days (example: 90) the emergency abatement measures are removed or permitted demonstrating compliance with all applicable codes and ordinances.

2. Stream and wetlands restoration and enhancement programs;

If the restoration and enhancements include any of the work described in the FEMA definition of development the work cannot be exempt from a flood hazard permit.

5. Routine maintenance or replacement of existing public facility projects.

I was unable to find a definition of public facility in the Tigard code but if the routine maintenance or replacement includes any of the work described in the FEMA definition of development the work cannot be exempt from a flood hazard permit.

Please let me know if I can provide any further assistance.

Take care,
Rox-

Roxanne Pilkenton, CFM
Floodplain Management Specialist
FEMA Region X | Floodplain Management and Insurance Branch
130 228th Street SW | Bothell, Washington 98021-9792
Phone: (425) 487-4654 | Cell: (202) 341-6948
KF7ROX
Roxanne.Pilkenton@fema.dhs.gov



FEMA

From: Agnes Kowacz [mailto:AgnesK@tigard-or.gov]
Sent: Monday, August 15, 2016 3:04 PM
To: Pilkenton, Roxanne <roxanne.reale-pilkenton@fema.dhs.gov>
Subject: RE: Flood Ordinance

Roxanne-
Can you specifically tell me which items are in conflict in section 18.775.020.B and 18.775.020.C?

Enforcement language is found in Tigard Municipal Code 14.04.090.

The remaining items will be added to the ordinance.

Thanks,

Agnes Kowacz | Associate Planner
City of Tigard | Community Development

13125 SW Hall Boulevard
Tigard, Oregon 97223
Phone: 503.718.2429
Email: AgnesK@tigard-or.gov

From: Pilkenton, Roxanne [mailto:roxanne.reale-pilkenton@fema.dhs.gov]
Sent: Thursday, August 11, 2016 11:32 AM
To: Tom McGuire <TomM@tigard-or.gov>
Cc: Shirley, Christine <christine.shirley@state.or.us>; Lentzner, Dave <david.lentzner@state.or.us>; Agnes Kowacz <AgnesK@tigard-or.gov>
Subject: FW: Flood Ordinance

Hello Tom,
Scott Van Hoff told me about your phone call this morning and I wanted to get an email out to you right away. A Community Assistance Visit (CAV) was conducted in 2014 and there were two ordinance items that were requested to be changed in regards to Critical Facilities and the Severability section. I was able to confirm that both of these items are being corrected in the update that is why they are not included in what I requested below. Please note that I'm not asking for the items in my email below to be corrected or added due to the CAV but because of the adoption of the new maps; the ordinance is required to be compliant with the NFIP minimum standards and portions of the Tigard code do not meet these minimum standards.
Scott said that you needed confirmation today that the items below do need to be addressed; please accept this email as confirmation that the items in my email below need to be addressed in the Tigard ordinance update.
Again, please let me know if I've inadvertently missed areas where some of the below code can be found. Please feel free to contact me with any further questions. I'd be happy to review the draft changes once they are made.
Take care,
Roxanne

Roxanne Pilkenton, CFM
Floodplain Management Specialist
FEMA Region X | Floodplain Management and Insurance Branch
130 228th Street SW | Bothell, Washington 98021-9792
Phone: (425) 487-4654 | Cell: (202) 341-6948
KF7ROX
Roxanne.Pilkenton@fema.dhs.gov



FEMA

From: Pilkenton, Roxanne
Sent: Wednesday, August 10, 2016 4:37 PM
To: Agnes Kowacz <AgnesK@tigard-or.gov>
Cc: Lentzner, Dave <david.lentzner@state.or.us>; Shirley, Christine <christine.shirley@state.or.us>
Subject: RE: Flood Ordinance

Hello Agnes,

Please forgive the lateness of my response I was out of the office last week and the first two days of this week were spent catching back up! ☺ I've found the following items that the City of Tigard may want to consider changing in the

ordinance along with the adoption of the maps. Please know that I realize I do not know your ordinance as well as you do and if I have inadvertently missed where the code/definition is I apologize:

Definitions:

FEMA's definition of development: *DEVELOPMENT* means any man-made change to improved or unimproved real estate, including but not limited to buildings or other structures, mining, dredging, filling, grading, paving, excavation or drilling operations or storage of equipment or materials.

I do see that Tigard has a definition of development but not one that would cover what is stated above.

FEMA's definition of Flood Insurance Rate Map: *FLOOD INSURANCE RATE MAP (FIRM)* means an official map of a community, on which the Federal Insurance Administrator has delineated both the special hazard areas and the risk premium zones applicable to the community. A FIRM that has been made available digitally is called a Digital Flood Insurance Rate Map (DFIRM).

I do not see that Tigard has a definition of Flood Insurance Rate Map (FIRM).

The Oregon Model Flood Damage Prevention Ordinance definition of Flood Insurance Study: *FLOOD INSURANCE STUDY* means the official report provided by the Federal Insurance Administration that includes flood profiles, the Flood Boundary-Floodway Map, and the water surface elevation of the base flood.

I do not see that Tigard has a definition of Flood Insurance Study.

FEMA's definition of Lowest Floor: *LOWEST FLOOR* means the lowest floor of the lowest enclosed area (including basement). An unfinished or flood resistant enclosure, usable solely for parking of vehicles, building access or storage in an area other than a basement area is not considered a building's lowest floor; *Provided*, that such enclosure is not built so as to render the structure in violation of the applicable non-elevation design requirements of § 60.3.

I do not see that Tigard has a definition of Lowest Floor.

FEMA's definition of Manufactured Home: *MANUFACTURED HOME* means a structure, transportable in one or more sections, which is built on a permanent chassis and is designed for use with or without a permanent foundation when attached to the required utilities. The term "manufactured" home does not include a "recreational vehicle".

I do see that Tigard has a definition of Mobile Home but it does not include all of the language that the NFIP requires.

FEMA's definition of New Construction: *NEW CONSTRUCTION* means, for the purposes of determining insurance rates, structures for which the "start of construction" commenced on or after the effective date of an initial FIRM or after December 31, 1974, whichever is later, and includes any subsequent improvements to such structures. For floodplain management purposes, *new construction* means structures for which the *start of construction* commenced on or after the effective date of a floodplain management regulation adopted by a community and includes any subsequent improvements to such structures.

I do not see that Tigard has a definition of New Construction.

FEMA's definition of Recreational Vehicle: *RECREATIONAL VEHICLE* means a vehicle which is: (a) Built on a single chassis; (b) 400 square feet or less when measured at the largest horizontal projection; (c) Designed to be self-propelled or permanently towable by a light duty truck; and (d) Designed primarily not for use as a permanent dwelling but as temporary living quarters for recreational, camping, travel, or seasonal use.

I do see that Tigard has a definition of Recreational Vehicle but it does not include all of the language that the NFIP requires.

The Oregon Model Flood Damage Prevention Ordinance definition of Start of Construction: *START OF CONSTRUCTION* includes substantial improvement, and means the date the building permit was issued, provided the actual start of construction, repair, reconstruction, placement or other improvement was within 180 days of the permit date. The actual start means either the first placement of permanent construction of a structure on a site, such as the pouring of slab or footings, the installation of piles, the construction of columns, or any work beyond the stage of excavation; or the placement of a manufactured home on a foundation. Permanent construction does not include land preparation, such as clearing, grading and filling; nor does it include the installation of streets and/or walkways; nor does it include excavation for a basement, footings, piers, or foundations or the erection of temporary forms; nor does it include the installation on the property of accessory buildings, such as garages or sheds not occupied as dwelling units or not part of the main structure, whether or not that alteration affects the external dimensions of the building.

I do not see that Tigard has a definition of Start of Construction.

FEMA's definition of Structure: *STRUCTURE* means, for floodplain management purposes, a walled and roofed building, including a gas or liquid storage tank, that is principally above ground, as well as a manufactured home.

I do see that Tigard has a definition of Structure, which asks you to go to the definition of Building, but it does not include all of the language that the NFIP requires.

FEMA's definition of Substantial Damage: *SUBSTANTIAL DAMAGE* means damage of any origin sustained by a structure whereby the cost of restoring the structure to its before damaged condition would equal or exceed 50 percent of the market value of the structure before the damage occurred.

I do not see that Tigard has a definition of Substantial Damage.

FEMA's definition of Violation: *VIOLATION* means the failure of a structure or other development to be fully compliant with the community's flood plain management regulations. A structure or other development without the elevation certificate, other certifications, or other evidence of compliance required in § 60.3(b)(5), (c)(4), (c)(10), (d)(3), (e)(2), (e)(4), or (e)(5) is presumed to be in violation until such time as that documentation is provided.

I do not see that Tigard has a definition of Violation.

Code Challenges:

18.775.020 (A)(10) In the Tigard code is in direct conflict with the NFIP. This section needs to be removed from the ordinance.

Several of the exemptions listed in 18.775.020 (B) are in direct conflict with the NFIP and need to be removed from the ordinance. While I agree that many of these items will not require a building or other permits they will require a flood hazard (or sensitive land) permit.

18.775.020 (C) in the Tigard code includes provisions that are in direct conflict with the NFIP. While some of these exemptions may be allowed in the NFIP not all are.

I am unable to find an enforcement provisions in 18.775, including a violation and penalty section specifying actions that Tigard will take to assure compliance. Please let me know if it is located in another area of the code.

I could not locate a Disclaimer of Liability section advising that the degree of flood protection required by the ordinance is considered reasonable but does not imply total flood protection. Please direct me to the location in code if I have missed it.

I am unable to find an Abrogation and Greater Restriction section (e.g., This Ordinance shall not in any way impair/remove the necessity of compliance with any other applicable laws, ordinances, regulations, etc. Where this Ordinance imposes a greater restriction, the provisions of this Ordinance shall control.) Please let me know if it is located in another area of the code.

Again, please forgive me if you have these items covered in your code and in my inexperience I have overlooked them. Please feel free to contact me with any questions about this email.

Take care,
Roxanne

Roxanne Pilkenton, CFM
Floodplain Management Specialist
FEMA Region X | Floodplain Management and Insurance Branch
130 228th Street SW | Bothell, Washington 98021-9792
Phone: (425) 487-4654 | Cell: (202) 341-6948
KF7ROX
Roxanne.Pilkenton@fema.dhs.gov



FEMA

From: Agnes Kowacz [<mailto:AgnesK@tigard-or.gov>]
Sent: Wednesday, July 27, 2016 2:38 PM
To: Pilkenton, Roxanne <roxanne.reale-pilkenton@fema.dhs.gov>
Cc: Shirley, Christine <christine.shirley@state.or.us>
Subject: RE: Flood Ordinance

Roxanne-
DLCD was sent all materials of this code package on 7/11/2016. I forgot to include the timeline. The first public hearing with the Planning Commission will be 8/15/2016 and City Council on 9/27/2016. The changes will be adopted by 11/4/2016. Thanks,

Agnes Kowacz | Associate Planner
City of Tigard | Community Development
13125 SW Hall Boulevard
Tigard, Oregon 97223
Phone: 503.718.2429
Email: AgnesK@tigard-or.gov

From: Pilkenton, Roxanne [<mailto:roxanne.reale-pilkenton@fema.dhs.gov>]
Sent: Wednesday, July 27, 2016 1:50 PM
To: #CD PoD <CDPoD@tigard-or.gov>
Cc: Shirley, Christine <christine.shirley@state.or.us>
Subject: Flood Ordinance

Good Afternoon Tom,

FEMA has you listed as the Floodplain Manager for the City of Tigard in our database; please forgive me if this information is incorrect. I'm reaching out to you in regards to the Washington County jurisdictions that will have new FIRMs and FIS becoming effective 04 November 2016. I know that Oregon State Law requires you to send them a copy of the proposed changes in your flood ordinance at least 35 days before the first public hearing. In communicating with Christine Shirley, DLCD it sounds as if she will be working closely with you to ensure State obligations are met. Because FEMA has a vested interest in ensuring that your new ordinance meets the NFIP minimum standards I would like to request that a copy of the ordinance that you send to Ms. Shirley is sent to me at the same time. In doing this it would also be helpful for you to provide a timeline as to when the City expects to pass major milestones in the ordinances adoption procedure.

If you have any questions please do not hesitate to contact me.

Take care,

Roxanne

Roxanne Pilkenton, CFM

Floodplain Management Specialist

FEMA Region X | Floodplain Management and Insurance Branch

130 228th Street SW | Bothell, Washington 98021-9792

Phone: (425) 487-4654 | Cell: (202) 341-6948

KF7ROX

Roxanne.Pilkenton@fema.dhs.gov



FEMA

DISCLAIMER: E-mails sent or received by City of Tigard employees are subject to public record laws. If requested, e-mail may be disclosed to another party unless exempt from disclosure under Oregon Public Records Law. E-mails are retained by the City of Tigard in compliance with the Oregon Administrative Rules "City General Records Retention Schedule."



City of Tigard Memorandum

To: Tigard City Council

From: Agnes Kowacz, Associate Planner

Re: Marijuana Regulations

Date: October 18, 2016

At the September 27, 2016, City Council instructed staff to provide additional information on the time and place regulations for marijuana facilities. Specifically, City Council asked staff to research hours of operations in other jurisdictions, report on any criminal activity associated with marijuana facilities located within the City and provide maps showing potential locations where marijuana facilities could be located after the change in the minimum distance between facilities from 2,000 feet to 1,000 feet.

Hours of Operation

Staff researched the hours of operations in other jurisdictions. The following table shows the permitted hours of operation for marijuana facilities for six other jurisdictions:

<u>Jurisdiction</u>	<u>Hours of Operation</u>
Tigard	10AM-8PM
Beaverton	7AM-10PM
Tualatin	10AM-8PM
Hillsboro	10AM-8PM
Portland	8AM-10PM
Washington County	8AM-10PM
State/OLCC	7AM-10PM

Police Report

Currently, only one retail marijuana facility is operating within the City of Tigard, The Herbarry located at 11642 SW Pacific Highway. The Police Department reviewed all crimes at and around the business location for the past year and found that two calls were generated at that address. One was a hit and run and the other was an unwanted customer with potentially mental health issues that they wanted removed. No other incidents were reported.

Maps

Two citywide maps have been provided with this memo identifying all the commercial and industrial areas (blue areas) where marijuana facilitates could occur if they were not limited to parcels with frontage on Pacific Highway (99W). On Map A, the areas identified in blue exclude the 1,000 foot buffer from schools and other retail facilities, 500 foot buffer from parks zones and library and the downtown core (Mixed Use Central Business District). On Map B, the areas identified in blue exclude the 1,000 foot buffer from schools and other retail facilities and the downtown core (Mixed Use Central Business District).

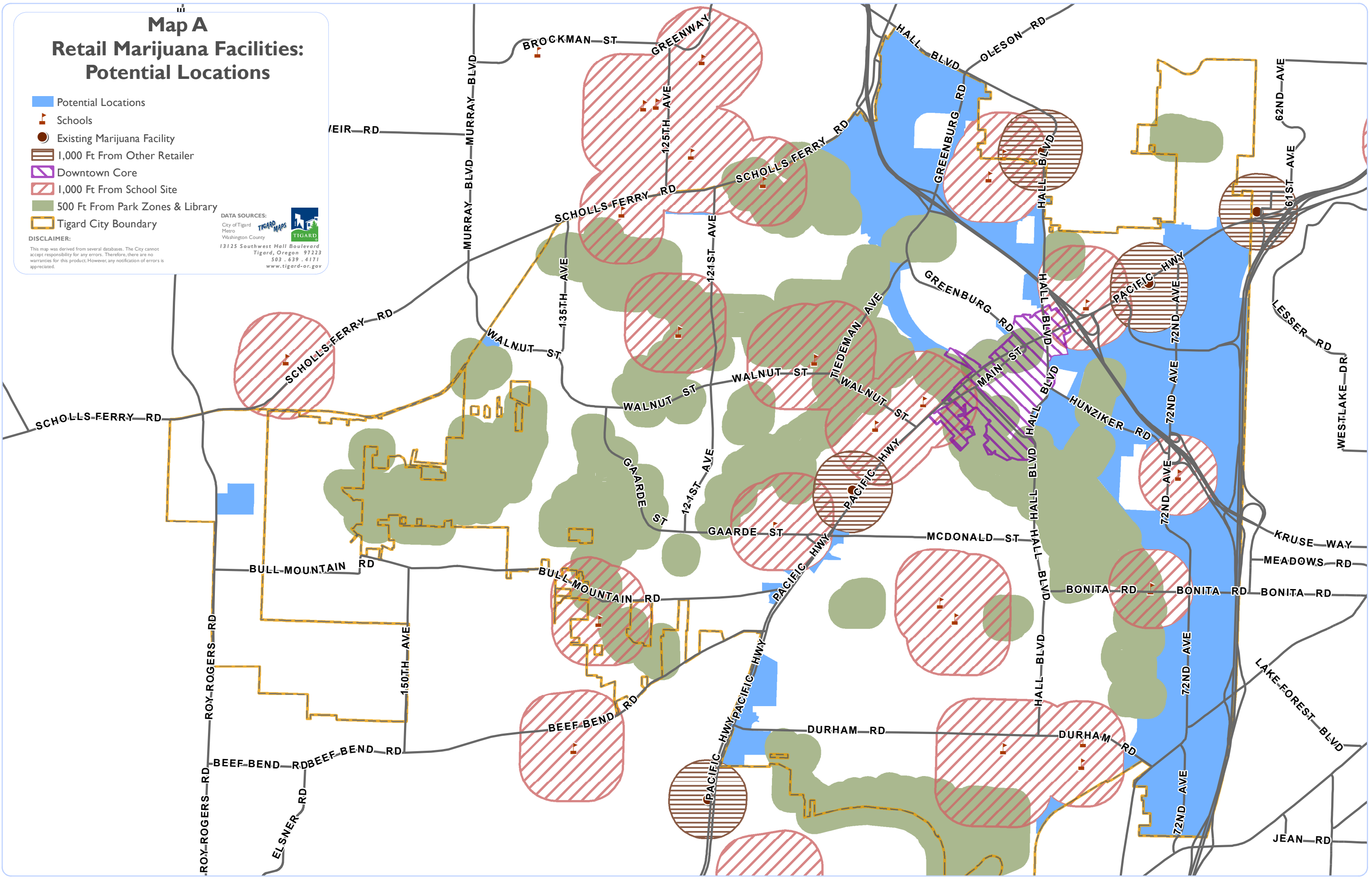
Map A

Retail Marijuana Facilities:
Potential Locations

- Potential Locations
- Schools
- Existing Marijuana Facility
- 1,000 Ft From Other Retailer
- Downtown Core
- 1,000 Ft From School Site
- 500 Ft From Park Zones & Library
- Tigard City Boundary

DISCLAIMER:
This map was derived from several databases. The City cannot accept responsibility for any errors. Therefore, there are no warranties for this product. However, any notification of errors is appreciated.

DATA SOURCES:
City of Tigard
Metro
Washington County
13125 Southwest Hall Boulevard
Tigard, Oregon 97223
503 . 639 . 4171
www.tigard-or.gov



Map B

Retail Marijuana Facilities: Potential Locations

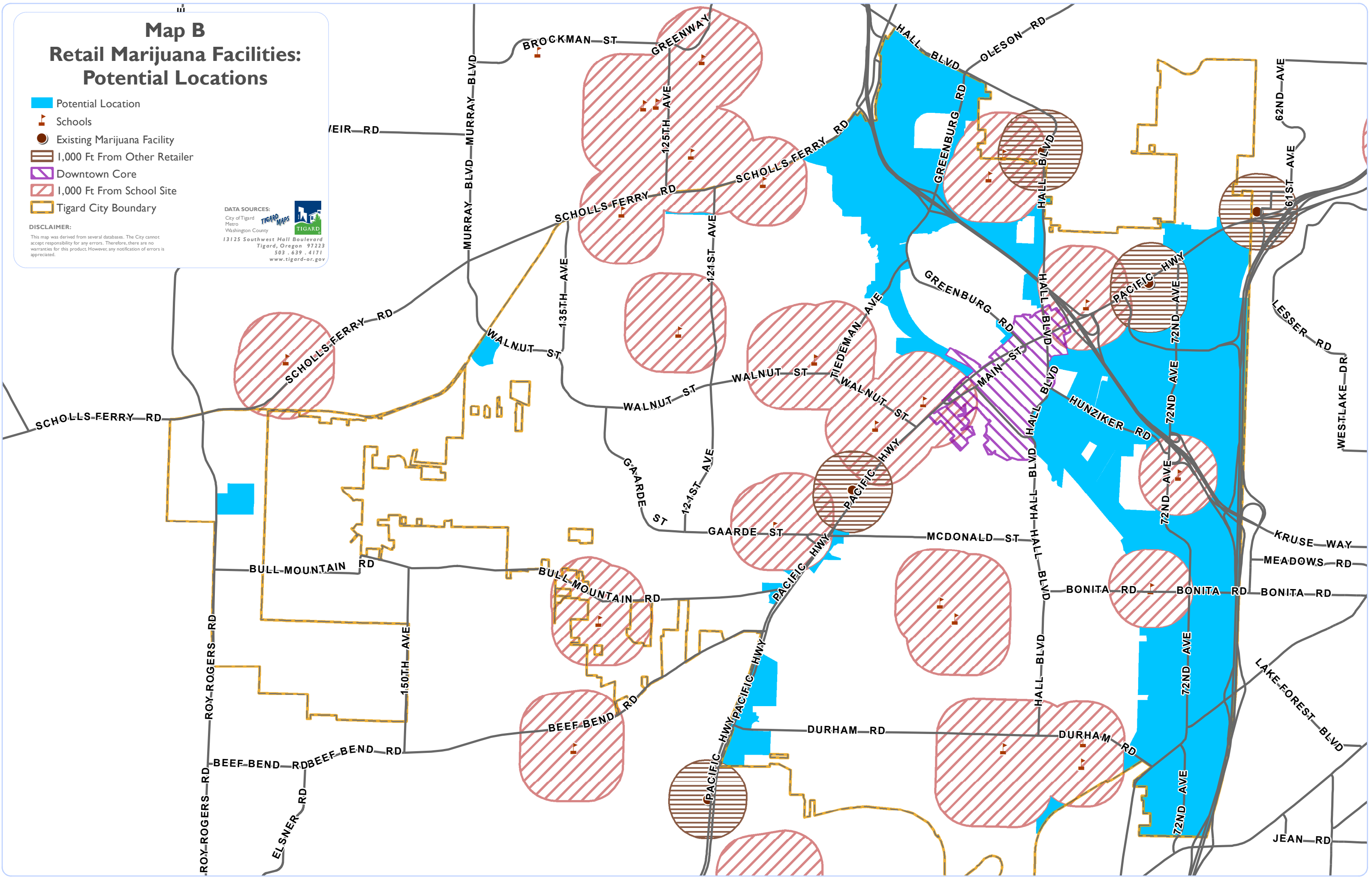
- Potential Location
- Schools
- Existing Marijuana Facility
- 1,000 Ft From Other Retailer
- Downtown Core
- 1,000 Ft From School Site
- Tigard City Boundary

DISCLAIMER:

This map was derived from several databases. The City cannot accept responsibility for any errors. Therefore, there are no warranties for this product. However, any notification of errors is appreciated.

DATA SOURCES:
City of Tigard
Metro
Washington County

13125 Southwest Hall Boulevard
Tigard, Oregon 97123
503 . 639 . 4171
www.tigard-or.gov



Chapter 18.735
MARIJUANA FACILITIES

Sections:

- 18.735.010 Purpose**
- 18.735.020 Applicability**
- 18.735.030 Compliance and Enforcement**
- 18.735.040 Development Standards**

18.735.010 Purpose

The purpose of this chapter is to:

- A. Protect the general health, safety, property, and welfare of the public;
- B. Balance the right of individuals to produce and access marijuana and marijuana derivatives consistent with state law, with the need to minimize adverse impacts to nearby properties that may result from the production, storage, distribution, sale, and/or use of marijuana and derivatives;
- C. Prevent or reduce criminal activity that may result in harm to persons or property;
- D. Prevent or reduce diversion of state-licensed marijuana and marijuana derivatives to minors; and
- E. Minimize impacts to the city's public safety services by reducing calls for service. (Ord. 15-07 §3)

18.735.020 Applicability

- A. Relationship to other standards. The regulations within this chapter are in addition to base zone standards. Sites with overlay zones, plan districts, inventoried hazards, and/or sensitive lands are subject to additional regulations. Specific uses or development types may also be subject to regulations set forth elsewhere in this title.
- B. When provisions apply. The provisions of this chapter shall apply to all marijuana facilities requiring a state license or registration. (Ord. 15-07 §3)

18.735.030 Compliance and Enforcement

- A. Procedure. All marijuana facilities requiring a state license or registration, and public places of assembly where marijuana is consumed, shall demonstrate minimal compliance with these standards through a Type I procedure as set forth in Section 18.390.030 of this title, using approval criteria set forth in subsection B of this section.
- B. Approval criteria. Development subject to the provisions of this chapter shall demonstrate compliance with all standards set forth in Section 18.735.040 of this chapter.
- C. Documentation. The following provisions shall apply at the time of minimum compliance review or a request for enforcement:
 - 1. When processing a minimum compliance review, the city may accept an evaluation and explanation certified by a registered engineer or architect, as appropriate, that the proposed

development will meet the off-site odor impact standard. The evaluation and explanation shall provide a description of the use or activity, equipment, processes and the mechanisms, or equipment used to avoid or mitigate off-site impacts.

2. If the city does not have the equipment or expertise to measure and evaluate a specific complaint regarding off-site impacts, it may request assistance from another agency or may contract with an independent expert to perform the necessary measurements. The city may accept measurements made by an independent expert hired by the controller or operator of the off-site impact source. (Ord. 15-07 §3)

18.735.040 Development Standards

Development subject to the provisions of this chapter shall demonstrate compliance with all of the following standards:

- A. The proposed development complies with all applicable state requirements.
- B. The proposed use is allowed in the underlying zone and complies with all applicable requirements of this title.
- C. The proposed development meets all of the following site location restrictions. All distances shall be measured at the closest property lines between the proposed site and nearest lot or parcel containing the specified use or characteristic.
 1. Marijuana facilities are prohibited within the MU-CBD zone.
 2. The proposed development is not within 1,000 feet of a public or private elementary school, secondary school, or career school attended primarily by minors.
 3. Sale-oriented retail and wholesale sales uses open to the public shall be subject to the following restrictions:
 - a. Must be located on a lot or parcel with frontage along Pacific Highway (Oregon Route 99W);
 - b. Shall not be located within 1,000 feet of another state-licensed retail or wholesale marijuana facility within or outside of city limits; and
 - c. Shall not be located within 500 feet of a public library or Tigard parks and recreation zone.
 4. Non-retail uses and wholesale sales uses not open to the public shall not be located within 500 feet of one or more of the following zones or facilities:
 - a. Residential zone;
 - b. Parks and recreation zone;
 - c. Public library.
- D. Hours of commercial operation shall be limited to the hours between 7:00 am and 10:00 pm. General industrial uses with no on-site retail activity are exempt from this restriction.

- E. Primary entrances shall be clearly visible from Pacific Highway (Oregon Route 99W).
- F. The proposed development shall be located inside a permanent building and may not be located within a trailer, shipping container, cargo container, tent, or motor vehicle. Outdoor storage of merchandise, plants, or other materials is not allowed.
- G. Parking lots, primary entrances, and exterior walkways shall be illuminated with downward facing security lighting to provide after-dark visibility to employees and patrons. Fixtures shall be located so that light patterns overlap at a height of seven feet with a minimum illumination level of 1.0 footcandles at the darkest spot on the ground surface.
- H. Drive-through marijuana facilities are prohibited.
- I. The proposed development shall confine all marijuana odors and other objectionable odors to levels undetectable at the property line.
- J. Marijuana or marijuana product shall not be visible from the exterior of the building or structure. (Ord. 15-07 §3) ■

AIS-2810

5.

Business Meeting

Meeting Date: 11/01/2016

Length (in minutes): 60 Minutes

Agenda Title: Legislative Public Hearing on 2016 Omnibus Code Amendment Package

Prepared For: Agnes Kowacz, Community Development

Submitted By: Sean Farrelly, Community Development

Item Type: Ordinance
Public Hearing - Legislative

Meeting Type: Council
Business
Meeting -
Main

Public Hearing: Yes

Publication Date:

Information

ISSUE

The City Council will hold a public hearing on the 2016 Omnibus Code Amendment Package (DCA2016-00003).

STAFF RECOMMENDATION / ACTION REQUEST

Staff recommends that City Council approve the proposed Development Code amendments as recommended by Planning Commission.

KEY FACTS AND INFORMATION SUMMARY

The DCA2016-00003 Omnibus Code Amendment Package includes the following:

1. Amend Chapter 18.130 Use Categories and 18.510 Residential Zoning Districts to include animal boarding when completely enclosed in a building under the Personal Services use category in Commercial Zones only; and
2. Amend Chapter 18.610 Tigard Downtown Plan District to increase the height limit from 45 feet to 80 feet in the Main-Center sub-area; and
3. Amend Chapter 18.620 Tigard Triangle Plan District and Chapter 18.520 Commercial Zoning Districts to allow multi-family dwelling units within the General Commercial (C-G) zone in the Tigard Triangle Plan District.

ANIMAL BOARDING

Owners of dog boarding facilities have expressed concern to Tigard City Council about current regulations pertaining to the classification of overnight boarding facilities. According to TDC 18.130.060.B, the boarding of normal household pets is considered an “Animal-Related Commercial” use, and is not allowed in most commercial zones. After

review of similar regulations in surrounding jurisdictions, staff proposed to Planning Commission to reclassify animal boarding facilities as a "Personal Service" use provided all associated activities (with the exception of parking) is completely enclosed in a building. If classified as a Personal Service use, animal boarding would be allowed in most commercial zones and restricted in the High Density Residential zones and Industrial Park zone. Planning Commission expressed concern about animal boarding in residential zones. Planning Commission's recommendation is to reclassify animal boarding to personal service, but prohibit it in all residential zones.

DOWNTOWN HEIGHTS

Prior to 2010, the Tigard downtown area was zoned Central Business District, with 80-foot height limits. In 2010, a new Mixed Use-Central Business District (MU-CBD) zone was instituted. Rather than having a single height limit, the zone was broken down into sub-areas with different building and site development standards including building heights. A 45-foot height limit was set in the Main-Center sub-area with the idea that taller buildings might present a visual conflict with the existing one and two story buildings on Main Street. Taller buildings, however, are more financially feasible downtown because more leasable square footage is necessary to offset the high costs of new construction and the relatively lower rental rates that can be presently achieved in the downtown. Returning the 80-foot height limit that was in place for much of the Main-Center sub-area prior to 2010 is in keeping with the area's designation as a Town Center, a focus area for transit supportive redevelopment.

MULTI-FAMILY IN THE TIGARD TRIANGLE

The Tigard Triangle Plan District was adopted to allow development of a mixed-use employment area with a convenient pedestrian and bikeway system. Zoning within this district includes both Mixed Use Employment (MUE) and General Commercial (C-G). Multi-family housing is permitted in the MUE zone at 25 units per acre but is restricted in the C-G zone to a maximum of 25% of the total gross floor area for multi-family use. In May 2015 the city, along with citizens, property owners and businesses, developed the Tigard Triangle Strategic Plan which envisions a vibrant, walkable Triangle with a mix of uses. Plan participants emphasized the importance of providing a variety of housing choices and greater affordability within the Triangle. This amendment will allow multi-family to occur without limitation on square footage in the Tigard Triangle and will encourage housing development that supports the vision for the Triangle and eliminate barriers for providing much needed work-force and affordable housing.

OTHER ALTERNATIVES

1. Continue the public hearing to a later date.
2. Revise the recommendation and approve.
3. Deny the amendments.

COUNCIL GOALS, POLICIES, APPROVED MASTER PLANS

Strategic Plan Goal 2: Ensure development advances the vision.

Comprehensive Plan Goals:

1 - Citizen Involvement

2 - Land Use Planning

9 - Economic Development

10- Housing

15 - Special Planning Areas-Downtown

DATES OF PREVIOUS COUNCIL CONSIDERATION

N/A

Attachments

Ordinance

Exhibit A Staff Report

Exhibit B Amendments

Public Comment - Attachment 1

Public Comment - Attachment 2

Public Comment

Public Comment

CITY OF TIGARD, OREGON
TIGARD CITY COUNCIL
ORDINANCE NO. 16-_____

AN ORDINANCE AMENDING CHAPTERS 18.130 (USE CATEGORIES), 18.510 (RESIDENTIAL ZONING DISTRICTS), 18.520 (COMMERCIAL ZONING DISTRICTS), 18.610 (TIGARD DOWNTOWN PLAN DISTRICT), AND 18.620 (TIGARD TRIANGLE PLAN DISTRICT) FOR THE PURPOSE OF ADOPTING AN OMNIBUS AMENDMENT PACKAGE TO CLASSIFY ANIMAL BOARDING AS A PERSONAL SERVICE USE CATEGORY, INCREASE HEIGHT LIMITS IN THE MAIN-CENTER SUB-AREA OF THE TIGARD DOWNTOWN PLAN DISTRICT, AND ALLOW MULTI-FAMILY DWELLINGS IN THE GENERAL COMMERCIAL ZONE WITHIN THE TIGARD TRIANGLE (DCA2016-00003).

WHEREAS, the city has initiated an application to amend the text of Development Code; and

WHEREAS, the purpose of the amendments is to address emergent development code issues regarding prohibition of animal boarding in commercial zones, height limits in the Tigard Downtown Plan District, and multi-family dwellings in the Tigard Triangle; and

WHEREAS, notice was provided to the Department of Land Conservation and Development at least 35 days prior to the first evidentiary public hearing; and

WHEREAS, notice to the public was provided in conformance with the Tigard Community Development Code Chapter 18.390.060.D and ORS 227.186; and

WHEREAS, the Tigard Planning Commission held a public hearing on October 17, 2016 and recommended by unanimous vote that Council approve the proposed code amendment, as amended by Planning Commission; and

WHEREAS, the Tigard City Council held a public hearing on November 1, 2016 to consider the proposed amendments; and

WHEREAS, the Tigard City Council has considered the recommendation of the Planning Commission; and

WHEREAS, the Tigard City Council has considered applicable Statewide Planning Goals and Guidelines adopted under Oregon Revised Statutes Chapter 197; any federal or state statutes or regulations found applicable; any applicable Metro regulations; any applicable Comprehensive Plan Policies; and any applicable provisions of the City's implementing ordinances; and

WHEREAS, the Tigard City Council has determined that the proposed development code amendments are consistent with the applicable review criteria, and unanimously approves the request as being in the best interest of the City of Tigard.

NOW, THEREFORE, THE CITY OF TIGARD ORDAINS AS FOLLOWS:

SECTION 1: Council adopts the findings contained in the “Planning Commission Recommendation to the City Council”, dated October 10, 2016 and included as **“Exhibit A”** to this Ordinance.

SECTION 2: Tigard Development Code (Title 18) is amended as shown in **“Exhibit B”** of the Planning Commission Recommendation to the City Council.

SECTION 3: This ordinance shall be effective 30 days after its passage by the Council, signature by the Mayor, and posting by the City Recorder.

PASSED: By _____ vote of all Council members present after being read by number and title only, this _____ day of _____, 2016.

Carol Krager, City Recorder

APPROVED: By Tigard City Council this _____ day of _____, 2016.

John L. Cook, Mayor

Approved as to form:

City Attorney

Date

**PLANNING COMMISSION
RECOMMENDATION TO THE
CITY COUNCIL
FOR THE CITY OF TIGARD, OREGON**



SECTION I. APPLICATION SUMMARY

CASE NAME: OMNIBUS CODE AMENDMENT PACKAGE

CASE NO.: Development Code Amendment (DCA) **DCA2016-00003**

PROPOSAL: The proposed legislative amendments to the Tigard Development Code (TDC) would do the following:

1. Amend Chapter 18.130 Use Categories to include animal boarding, when completely enclosed in a building, under the personal services use category; and
2. Amend Chapter 18.610 Tigard Downtown Plan District to increase the height from 45 feet to 80 feet in the Main-Center sub-area; and
3. Amend Chapter 18.620 Tigard Triangle Plan District and Chapter 18.520 Commercial Zoning Districts to allow multi-family dwelling units within the General Commercial (C-G) zone in the Tigard Triangle Plan District.

The proposed text and map amendments for the City Council's review are included in **Attachment 1**, and summarized below in Section IV of this report:

APPLICANT: City of Tigard
13125 SW Hall Blvd.
Tigard, OR 97223

ZONES: Citywide

LOCATION: Citywide

**APPLICABLE
REVIEW**

CRITERIA: Statewide Planning Goals 1 (Citizen Involvement), 2 (Land Use Planning), 9 (Economic Development) and Goal 10 (Housing); Metro's Urban Growth Management Functional Plan, Title 6, Title 7, and Title 8; Comprehensive Plan Goals 1.1.2, 2.1.2, 2.1.3, 2.1.6, 2.1.21, 2.1.23, 9.1.3, 9.1.12, 9.3.1, 10.1.1 10.1.5, 15.1, 15.2.1, 15.2.2, 15.2.6, and 15.2.7 ; and Tigard Development Code Chapters 18.380 and 18.390

SECTION II. PLANNING COMMISSION RECOMMENDATION

Planning Commission recommends approval by ordinance of the proposed development code text amendments (Attachment 1) with any alterations as determined through the public hearing process.

SECTION III. BACKGROUND INFORMATION AND PROJECT SUMMARY

Planning Commission is recommending for Council consideration an omnibus amendment package to address three emergent development code issues. These issues are being bundled together for administrative efficiency through one land use process. The three components are summarized below followed by a brief discussion of each item. Further discussion is provided in Attachment 1 of this report.

1. Amend Chapter 18.130 Use Categories to include animal boarding, when completely enclosed in a building, under the personal services use category ; and
2. Amend Chapter 18.610 Tigard Downtown Plan District to increase the height from 45 feet to 80 feet in the Main-Center sub-area; and
3. Amend Chapter 18.620 Tigard Triangle Plan District and Chapter 18.520 Commercial Zoning Districts to allow multi-family dwelling units within the General Commercial (C-G) zone in the Tigard Triangle Plan District.

DOG BOARDING AS A PERSONAL SERVICE USE

Owners of dog boarding facilities expressed concern to Tigard City Council about the current regulations pertaining to the classification of boarding facilities. According to TDC 18.130.060.B, the boarding of normal household pets is considered an “Animal-Related Commercial” use and is not allowed in the C-N (Neighborhood Commercial), C-C (Community Commercial), C-G (General Commercial), C-P (Professional Commercial), MU-CBD (Mixed-Use Commercial Business District), MUC (Mixed Use Commercial), MUE-1 and 2 (Mixed-Use Employment) and MUR-1 and 2 (Mixed Use Residential) zoning districts. Tigard City Council expressed interest in pursuing this further and asked staff to explore the option of allowing this use in commercial zones provided the impacts could be mitigated. Staff researched several cities to see how animal boarding was being regulated. The comparison of these regulations is listed below:

City	Regulation
Lake Oswego	<ul style="list-style-type: none">○ Consider overnight animal boarding to be an “animal boarding facility”<ul style="list-style-type: none">▪ Conditionally permitted in industrial zones▪ Not permitted in commercial zones○ Consider doggy daycare to be “pet care, daily”<ul style="list-style-type: none">▪ Conditionally or outright permitted in commercial zones, depending on the zone and whether or not it’s fully indoors
Beaverton	<ul style="list-style-type: none">○ Consider overnight animal boarding with 5 animals or more to be a “animal care, major”<ul style="list-style-type: none">▪ Conditionally permitted in all commercial and industrial zones, with the exception of one industrial zone which permits it outright▪ Not permitted outright in any zone
Hillsboro	<ul style="list-style-type: none">○ Consider doggy daycare and overnight animal boarding to be an “animal service facility”<ul style="list-style-type: none">▪ Permitted outright, but only indoors in Neighborhood Commercial Zone▪ Permitted outright, subject to certain restrictions in General Commercial Zone

Portland	<ul style="list-style-type: none"> ○ Consider doggy daycare and overnight animal boarding (with the exception of animal breeding) to be “retail sales and service” <ul style="list-style-type: none"> ▪ Permitted outright or subject to certain limitations in all commercial zones (except the Office Commercial 1 Zone) ▪ Conditionally permitted in all industrial zones
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Based on the research provided above, a majority of the cities classify animal boarding facilities to be some kind of animal related service use with the exception of Portland, which classifies it more generally as service. Lake Oswego prohibits these facilities in all commercial zones, Beaverton allows them only through a conditional use review while Hillsboro and Portland allows them in certain commercial zones.

Staff proposes to classify animal boarding facilities as a “Personal Service” use when all the activities associated with the use, with the exception of parking, are completely enclosed within a building. If classified as a personal service use, animal overnight boarding facilities would be permitted outright in C-N, C-C, C-G, C-P, MU-CBD and MUC commercial zoning districts and permitted subject to certain restrictions in the MUE, MUC-1, MUE-1 and 2 and MUR-1 and 2 commercial districts.

Planning Commission expressed concern that if animal boarding is reclassified as a personal use service use, animal boarding could potentially occur in two residential zones, R-25 and R-40. To address this, Planning Commission revised the proposed amendment to specifically prohibit animal boarding in residential zones. To accomplish this directive, staff added language to footnote 11 in Chapter 18.510 that states “Animal boarding, even if enclosed within a building, is prohibited in residential zones”.

DOWNTOWN TIGARD PLAN DISTRICT HEIGHT LIMITS

In 2010, a new Mixed Use-Central Business District (MU-CBD) zone was instituted. Rather than having a single height limit, the zone was broken down into sub-areas with different building and site development standards including building heights. The Main-Center sub-area centers on Downtown’s historic Main Street. New buildings in the sub-area must include ground floors with commercial storefront features, with residential and commercial uses are permitted on upper floors. □

Much of the rest of the MU-CBD zone retained the 80-foot height limit of the predecessor zone – the Central Business District (CBD). A 45- foot height limit was set in the Main-Center sub-area with the idea that taller buildings might present a visual conflict with the existing one and two story buildings on Main Street.

The 45-foot height limit realistically only allows a 3 story building, due to the requirement that the ground floor in the Main-Center sub-area be 15 feet tall. This reduces the financial feasibility of new construction. Downtown Tigard is a focus area for redevelopment, with an urban renewal district in place. Several redevelopment studies have been undertaken, that have run financial feasibility models for new development. Taller buildings were found to be more financially feasible because more leasable square footage could offset the costs of new construction and the lower rental rates that can be presently achieved in the Downtown.

Returning the 80-foot height limit that was in place for much of the Main-Center sub-area prior to 2010 is in keeping with the area’s designation as a Metro Town Center, a focus area for transit supportive redevelopment.

MULTI-FAMILY DWELLINGS IN THE TIGARD TRIANGLE

The Tigard Triangle Plan District was adopted to develop a mixed-use employment area with a convenient

pedestrian and bikeway system. In addition, the Triangle is within a Metro designated Town Center. Zoning within this district includes both Mixed Use Employment (MUE) and General Commercial (C-G). Multi-family housing is permitted in the MUE zone at 25 units per acre; but is restricted in the C-G zone. The use is permitted only through a Planned Development process; which limits a maximum of 25% of the total gross floor area for multi-family use.

Since the adoption of the Tigard Triangle district, housing development has been limited. However, as demand for housing increases in the Metro region, this is likely to change. In May 2015 the City along with citizens, property owners and businesses developed the Tigard Triangle Strategic Plan, which envisions a vibrant, walkable Triangle with a mix of uses. Plan participants emphasized the importance of providing a variety of housing choices and greater affordability within the Triangle.

Amending the C-G restrictions on multi-family in the Tigard Triangle will encourage housing development that supports the vision for the Triangle and eliminate barriers for providing much needed work-force and affordable housing. The proposed amendment is limited to the C-G zone within the Tigard Triangle; thus multi-family will still be restricted in C-G zones in other areas of the city.

PROPOSED AMENDMENTS

Amend the Tigard Development Code as proposed:

- Text Amendments to Chapter 18.130 (Use Categories) to amend the “Animal-Related Commercial” use category to allow overnight boarding as a “Personal Service” use when all activities, with the exception of parking, are completely enclosed within a building.
- Text Amendments to Chapter 18.510 (Residential Zoning Districts) to amend footnote 11 of Table 18.510.1 with language that states “Animal boarding, even if enclosed within a building, is prohibited in residential zones”.
- Text Amendments to Chapter 18.610 (Tigard Downtown Plan District) to amend 18.610.020.A.1, the sub-area description for Highway 99 and Hall Boulevard Corridor, to correct a typo on line seven by changing “eight stories” to “45 feet” to make the description consistent with the MU-CBD Development Standards Matrix; Table 18.610.1.
- Text Amendments to Chapter 18.610 (Tigard Downtown Plan District) to amend the maximum height standard for the Main-Center sub-area in the MU-CBD Development Standards Matrix; Table 18.610.1, from 45 feet to 80 feet.
- Text Amendments to Chapter 18.520 (Commercial Zoning Districts) to amend footnote 11 of Table 18.520.1 in order to remove the requirement for a Planned Development Review for multi-family housing within the C-G zone within the Tigard Triangle Plan District.
- Text Amendments to Chapter 18.620 (Tigard Triangle Plan District) to add a new Section that would allow multi-family dwelling units in the C-G (General Commercial) zone.

SECTION IV. APPLICABLE CRITERIA, FINDINGS AND CONCLUSIONS

STATEWIDE PLANNING GOALS AND GUIDELINES

State planning regulations require cities to adopt and amend Comprehensive Plans and land use regulations in compliance with the state land use goals. Because the proposed code amendments have a limited scope and the text amendments address only some of the topics in the Statewide Planning Goals, only applicable statewide goals are addressed below.

Statewide Planning Goal 1 – Citizen Involvement:

This goal outlines the citizen involvement requirement for adoption of Comprehensive Plans and changes to the Comprehensive Plan and implementing documents.

FINDING: This goal has been met by complying with the Tigard Development Code notice requirements set forth in Section 18.390.060 (Type IV Procedures). Notices were sent by US Postal Service on September 28, 2016 to affected government agencies and the latest version of the City's interested parties list. A notice was published in the Tigard Times newspaper prior to the hearing. Project information and documents were published to the City website prior to the public hearing. A minimum of two public hearings will be held (one before the Planning Commission and the second before the City Council) at which an opportunity for public input is provided. This goal is satisfied.

Statewide Planning Goal 2 – Land Use Planning:

This goal outlines the land use planning process and policy framework.

FINDING: The Department of Land Conservation and Development (DLCD) has acknowledged the City's Comprehensive Plan as being consistent with the statewide planning goals. The Development Code implements the Comprehensive Plan. The Development Code establishes a process and standards to review changes to the Tigard Development Code in compliance with the Comprehensive Plan and other applicable state requirements. As discussed within this report, the applicable Development Code process and standards have been applied to the proposed amendment. This goal is satisfied.

Statewide Planning Goal 9 – Economic Development:

This goal seeks to provide adequate opportunities throughout the state for a variety of economic activities vital to the health, welfare, and prosperity of Oregon's citizens.

FINDING: The Department of Land Conservation and Development has acknowledged the City's Comprehensive Plan as being consistent with the statewide planning goals. Consistency with the City's Comprehensive Plan Economic Development goals and policies is discussed later in this report under Tigard Comprehensive Plan Goal 9.1 and associated policies. This goal is satisfied.

Statewide Planning Goal 10 – Housing:

This goal seeks to provide a variety of needed housing types.

FINDING: The Department of Land Conservation and Development has acknowledged the City's Comprehensive Plan as being consistent with the statewide planning goals. Consistency with the City's Comprehensive Plan Housing goals and policies is discussed later in this report under Tigard Comprehensive Plan Goal 10.1 and associated policies. This goal is satisfied.

CONCLUSION: Based on the findings above and the related findings below, staff finds the proposed code amendments are consistent with applicable Statewide Planning Goals.

METRO'S URBAN GROWTH MANAGEMENT FUNCTIONAL PLAN

State planning regulations require cities to adopt and amend Comprehensive Plans and land use regulations in compliance with the state land use goals. Because the proposed Code Amendments have a limited scope and the text amendments address only some of the topics in the METRO's Urban Growth Management Functional Plan, only applicable Titles are addressed below.

Title 6: Central City, Regional Centers, Town Centers and Station Communities

Requires local jurisdictions to adopt land use and transportation plans that are consistent with Metro guidelines for designated Town Centers.

FINDING: The Metro 2040 Growth Concept and Framework Plan designates Downtown Tigard as a Town Center. Centers are defined as “compact, mixed-use neighborhoods of high-density housing, employment and retail that are pedestrian-oriented and well served by public transportation and roads.” Downtown Tigard is also a designated Station Community.

Returning the Main Street section of the Main Center sub-area to 80 feet would allow more flexibility in the development of new buildings that will help achieve “compact, mixed-use neighborhoods of high-density housing, employment and retail.” This title is satisfied.

Title 7 – Housing Choice:

This goal ensures that Comprehensive Plans and implementing ordinances provide for a diverse and affordable range of housing.

FINDING: The proposed amendment will permit outright multi-family dwelling units in the C-G zone within the Tigard Triangle Plan District. Currently, the code only allows this type of development through a Planned Development review. The proposed code amendment will make the process for permitting this type of development timelier and less costly.

Returning the Main Street section of the Main Center sub-area to 80 feet would allow more flexibility in the development of new mixed use buildings with upper floor residential that will help provide for a more diverse and affordable range of housing near the transit center in Downtown Tigard, a Metro designated Town Center where new housing will be focused. This title is satisfied.

Title 8 – Compliance Procedures:

This goal outlines the citizen involvement requirement for adoption of Comprehensive Plans and changes to the Comprehensive Plan and implementing documents.

FINDING: This title has been met by complying with the Tigard Development Code notice requirements set forth in Section 18.390.060 (Type IV Procedures). Notices were sent by US Postal Service on September 28, 2016 to affected government agencies and the latest version of the City’s interested parties list. A notice was published in the Tigard Times newspaper prior to the hearing. Project information and documents were published to the City website prior to the public hearing. A minimum of two public hearings will be held (one before the Planning Commission and the second before the City Council) at which an opportunity for public input is provided. This title is satisfied.

CONCLUSION: Based on the findings above, staff finds that the proposed code amendment is consistent with Metro’s Urban Growth Management Functional Plan.

TIGARD COMPREHENSIVE PLAN

State planning regulations require cities to adopt and amend comprehensive plans and land use regulations in compliance with the state land use goals and consistent with comprehensive plan goals and policies. Because the development code amendments have a limited scope and the text amendments address only some of the topics in the Tigard Comprehensive Plan, only applicable comprehensive plan goals and associated policies are addressed below.

Comprehensive Plan Goal 1: Citizen Involvement

Policy 1.1.2: The City shall define and publicize an appropriate role for citizens in each phase of the

land use planning process.

FINDING: This policy has been met by complying with the Tigard Development Code notice requirements set forth in Section 18.390.060 (Type IV Procedures). Notices were sent by US Postal Service on September 28, 2016 to affected government agencies and the latest version of the City's interested parties list. A notice was published in the Tigard Times newspaper prior to the hearing. Project information and documents were published to the City website prior to the public hearing. A minimum of two public hearings will be held (one before the Planning Commission and the second before the City Council) at which an opportunity for public input is provided. This policy is met.

Comprehensive Plan Goal 2: Land Use Planning

Policy 2.1.2: The City's land use regulations, related plans, and implementing actions shall be consistent with and implement its Comprehensive Plan.

FINDING: As demonstrated in this staff report, the proposed amendments to the Tigard Development Code are consistent with the Tigard Comprehensive Plan. This policy is satisfied.

Policy 2.1.3: The City shall coordinate the adoption, amendment, and implementation of its land use program with other potentially affected jurisdictions and agencies.

FINDING: Copies of the proposed text amendments were sent to affected agencies and were invited to comment on the proposal, as required by Section 18.390.060 (Type IV Procedures) and discussed in Section V of this report. Comments submitted by affected agencies have been incorporated into this report and the proposed amendments. This policy is satisfied.

Policy 2.1.6: The City shall promote the development and maintenance of a range of land use types which are of sufficient economic value to fund needed services and advance the community's social and fiscal stability.

FINDING: The proposed text amendments will allow for a variety of uses to be located within the City which will result in more taxable economic activity to occur. The proposal includes allowing animal overnight boarding to be a permitted use in most commercial zone. The increase in heights in the Main Street sub-area will also provide for more diverse land uses that may occur downtown. Eliminating restrictions on affordable housing in the Triangle will encourage development of more housing in the district. This policy is satisfied.

Policy 2.1.21 The City shall require all development to conform to site design/development regulations.

FINDING: The proposed amendments do not change the requirements for developments to comply with site design/development regulations. All development shall continue to conform to all regulations. This policy is satisfied.

Policy 2.1.23 The City shall require new development, including public infrastructure, to minimize conflicts by addressing the need for compatibility between it and adjacent existing and future land uses.

FINDING: The proposed amendments allowing animal overnight boarding to be allowed in most commercial zones when the associated activities, with the exception of parking, is completely enclosed within a building. Impacts such as noise and odor, which can result from this type of business is mitigated by the activities being completely contained within a building. This use would not generate greater impacts than other commercial

uses that are currently permitted in commercial zones. This policy is satisfied.

Comprehensive Plan Goal 9: Economic Development

Policy 9.1.5 The City shall promote well-designed and efficient development and redevelopment of vacant and underutilized industrial and commercial lands.

The City has taken several actions to focus growth in its Metro designated Town Center (Downtown and the Tigard Triangle) where there is much vacant and underutilized land. The raising of the height limit in the Main-Center sub-area would increase the financial feasibility of redeveloping underutilized properties in the area. This policy is satisfied.

Policy 9.1.3: The City's land use and other regulatory practices shall be flexible and adaptive to promote economic development opportunities, provided that required infrastructure is made available.

FINDING: The proposed amendments will remove the requirement for a Planned Development review for multi-family housing within the Tigard Triangle Plan District, which will enable housing projects to be approved through a timelier and less costly process. This policy is satisfied.

Policy 9.1.12: The City shall assure economic development promotes other community qualities, such as livability and environmental quality that are necessary for a sustainable economy.

FINDING: The raising of the height limit in the Main-Center sub-area would promote livability in the downtown by encouraging new development in an area with good walkability, transit access and proximity to the regional Fanno Creek Trail. This policy is satisfied.

Policy 9.3.1: The City shall focus a significant portion of future employment growth and high-density housing developments in its Metro-designated Town Center (Downtown); Regional Center (Washington Square); High Capacity Transit Corridor (Hwy 99W); and the Tigard Triangle.

FINDING: The proposed amendments enable multi-family housing to occur in the Tigard Triangle Plan District in a timelier and less costly manner. Raising the height limit in the Main-Center sub-area of the Downtown will provide for higher density housing near the Tigard Transit Center in a Metro-designated Town Center (Downtown). This policy is satisfied.

Comprehensive Plan Goal 10: Housing

Policy 10.1.1: The City shall adopt and maintain land use policies, codes, and standards that provide opportunities to develop a variety of housing types that met the needs, preferences and financial capabilities of Tigard's present and future residents.

FINDING: The proposed amendments will permit outright multi-family dwelling units in the C-G zone within the Tigard Triangle Plan District. Currently, the code only allows this type of development through a Planned Development review, which limits multi-family to 25% of the gross floor area. The proposed code amendment will make the process for permitting this type of development timelier and less costly. This amendment would assist in providing affordable housing.

Raising the height limit in the Main-Center sub-area of the MU-CBD zone in the Downtown Plan District will increase the financial feasibility for higher density housing and mixed use development near the Tigard Transit Center in a Metro-designated Town Center (Downtown). This policy is satisfied.

Policy 10.1.5: The City shall provide for high and medium density housing in the areas such as town

centers (Downtown), regional centers (Washington Square), and along transit corridors where employment opportunities, commercial services, transit and other public services necessary to support higher population densities are either present or planned for in the future.

FINDING: The proposed amendments will permit outright multi-family dwelling units in the C-G zone within the Tigard Triangle Plan District, which is part of the Tigard Town Center. Currently, the code only allows this type of development through a Planned Development review. The Planned Development regulations limit multi-family to 25% of the gross floor area. The proposed code amendment will make the process for permitting this type of development timelier and less costly and encourage more affordable housing development within the Triangle.

Raising the height limit in the Main-Center sub-area of the Downtown will support higher density housing near the Tigard Transit Center in a Metro-designated Town Center (Downtown). This policy is satisfied.

Special Planning Area- Downtown

Goal 15.1 The City will promote the creation of a vibrant and active urban village at the heart of the community that is pedestrian oriented, accessible by many modes of transportation, recognizes natural resources as an asset, and features a combination of uses that enable people to live, work, play, and shop in an environment that is uniquely Tigard.

FINDING: Raising the height limit in the Main-Center sub-area of the MU-CBD zone in the Downtown Plan District will increase the feasibility of redevelopment that will create a vibrant and active urban village. This goal is satisfied.

Policy 15.2.1: New zoning, design standards, and design guidelines shall be developed and used to ensure the quality, attractiveness, and special character of the Downtown as the “heart” of Tigard, while being flexible enough to encourage development.

FINDING: Raising the height limit in the Main-Center sub-area of the MU-CBD zone in the Downtown Plan District will allow more flexibility in development by permitting taller buildings while still ensuring the quality, attractiveness, and special character of the Downtown. This policy is satisfied.

Policy 15.2.2: The downtown’s land use plan shall provide for a mix of complementary land uses such as: A. retail, restaurants, entertainment and personal services; B. medium and high-density residential uses, including rental and ownership housing; C. civic functions (government offices, community services, public plazas, public transit centers, etc); D. professional employment and related office uses; and E. natural resource protection, open spaces and public parks.

FINDING: Raising the height limit in the Main-Center sub-area of the MU-CBD zone in the Downtown Plan District will facilitate the development of a mix of complementary land uses, by making such development more financially feasible. This policy is satisfied.

Policy 15.2.6: New housing in the downtown shall provide for a range of housing types, including ownership, workforce, and affordable housing in a high quality living environment.

FINDING: Raising the height limit in the Main-Center sub-area of the MU-CBD zone in the Downtown Plan District will improve the financial feasibility of mixed use buildings with upper floor residential and so provide for a range of housing types in the downtown. This policy is satisfied.

Policy 15.2.7: New zoning and design guidelines on Main Street will emphasize a “traditional Main

Street” character.

FINDING: Many communities in Oregon have traditional Main Streets that allow buildings taller than 45 feet. Design standards including window coverage, traditional storefront appearance will remain in place and will ensure that new buildings to provide a “traditional Main Street character.” This policy is satisfied.

CONCLUSION: Based on the findings above, staff concludes that the proposed code text amendment is consistent with applicable provisions of the Tigard Comprehensive Plan.

APPLICABLE PROVISIONS OF THE TIGARD DEVELOPMENT CODE

Section 18.380: Zoning Map and Text Amendments

18.380.020 Legislative Amendments to this Title and Map

Legislative zoning map and text amendments shall be undertaken by means of a Type IV procedure, as governed by Section 18.390.060G.

FINDING: The proposed amendments are legislative in nature. Therefore, the amendment will be reviewed under the Type IV legislative procedure as set forth in the chapter. This procedure requires public hearings by both the Planning Commission and City Council. This standard is satisfied.

Section 18.380: Decision Making Procedures

18.390.060 Type IV Procedure

G. Decision-making considerations. The recommendation by the commission and the decision by the council shall be based on consideration of the following factors:

- 1. The Statewide Planning Goals and Guidelines adopted under Oregon Revised Statutes Chapter 197;**
- 2. Any federal or state statutes or regulations found applicable;**
- 3. Any applicable METRO regulations;**
- 4. Any applicable comprehensive plan policies; and**
- 5. Any applicable provisions of the City's implementing ordinances.**

FINDING: Findings and conclusions are provided in this section for the applicable listed factors on which the recommendation by the Commission and the decision by the Council shall be based. This standard is satisfied.

CONCLUSION: Based on the findings above, staff concludes that the proposed code text amendments are consistent with applicable provisions of the Tigard Development Code.

SUMMARY

CONCLUSION: As shown in the findings above, staff concludes that the proposed amendments are consistent with the applicable Statewide Planning Goals; METRO’s Urban Growth Management Functional Plan; applicable Tigard Comprehensive Plan goals and policies, and the applicable provisions of the City’s implementing ordinances.

SECTION V. AGENCY COMMENTS

City of Portland, City of Beaverton, City of Durham, City of Lake Oswego, City of Tualatin, City of King City, Washington County, METRO, DOGAMI, ODOT, DLCD, DEQ, ODFW, CWS, and Tri-Met were notified of the proposed code text amendment but provided no comment.

ODOT provided comments stating they would like to review the City's Transportation Planning Rule (TPR) 0060 findings. Staff stated that they will provide the findings as soon as they are received from the consultant.

Tualatin Valley Fire and Rescue provided comments stating that they reviewed the proposal

SECTION VI. PUBLIC COMMENTS

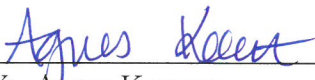
The City received two phone calls inquiring more details on the code amendments and how the regulations were proposed to change. Staff provided additional information and invited them to attend the public hearings.

The Planning Commission heard testimony from four citizens at the public hearing on August 15, 2016. Two citizens spoke in favor of the amendments, one was neutral and the fourth was against the change to the Tigard Triangle Plan District. The testimony was considered by the Planning Commission as they formed their recommendation to Council to approve the proposed amendments. The Commission also decided to make amend Issue 1 as proposed by staff. The Commission directed staff to add language that prohibits overnight dog boarding in residential zones. The Planning Commission Minutes are included as Attachment 2.

ATTACHMENTS:

Attachments:

1. Draft Text Amendments
 - a. 18.130 Use Categories and 18.510 Residential Zoning Districts
 - b. 18.610 Tigard Downtown Plan District
 - c. 18.520 Commercial Zoning Districts and 18.620 Tigard Triangle Plan District
2. Draft October 17, 2016 Planning Commission Minutes



PREPARED BY: Agnes Kowacz
Associate Planner

October 19, 2016
DATE



APPROVED BY: Tom McGuire
Assistant Community Development Director

October 19, 2016
DATE

DCA2016-00003
2016 OMNIBUS CODE AMENDMENT PACKAGE

Explanation of Formatting

These text amendments employ the following formatting:

~~Strikethrough~~ – Text to be deleted

[Bold, Underline and Italic] – Text to be added

Except from Chapter 18.130 USE CATEGORIES

18.130.060 Commercial Use Categories

B. Animal-Related Commercial.

1. Characteristics: Animal-Related uses are those engaged in breeding, and/or boarding of normal household pets. Limited animal sales may or may not be part of the use.
2. Accessory uses: Accessory uses commonly found include parking, office space, and storage space.
3. Examples: Examples include animal breeders, kennels, overnight boarding facilities, and a single dwelling unit exclusively occupied by an on-site caretaker or the kennel owner/operator and family.
4. Exceptions:
 - a. Facilities where the primary activity is animal sales shall be considered Sales-Oriented Retail.
 - b. Does not include animal grooming, which is considered Personal Services or Repair-Oriented Retail.
 - c. Does not include veterinary clinics, which are considered Office.
 - d. Does not apply to poultry or livestock, which are considered an Agriculture/Horticulture Use.
 - e. Overnight boarding facilities for household pets when these facilities and all their activities, with the exception of parking, are completely enclosed within a building, shall be considered Personal Service.**

Except from Chapter 18.510 RESIDENTIAL ZONING DISTRICTS

TABLE 18.510.1
 USE TABLE: RESIDENTIAL ZONES

Personal Service is restricted (R) in the R-25 and R-40 zone and is subject to Footnote 11 as follows:

[11] Limited to ground-floor level of multi-family projects, not to exceed 10% of total gross square feet of the building. *Animal boarding, even if enclosed within a building, is prohibited in residential zones.*

DCA2016-00003
2016 OMNIBUS CODE AMENDMENT PACKAGE

Explanation of Formatting

These text amendments employ the following formatting:

~~Strikethrough~~ – Text to be deleted

[Bold, Underline and Italic] – Text to be added

Chapter 18.610
TIGARD DOWNTOWN PLAN DISTRICT

Sections:

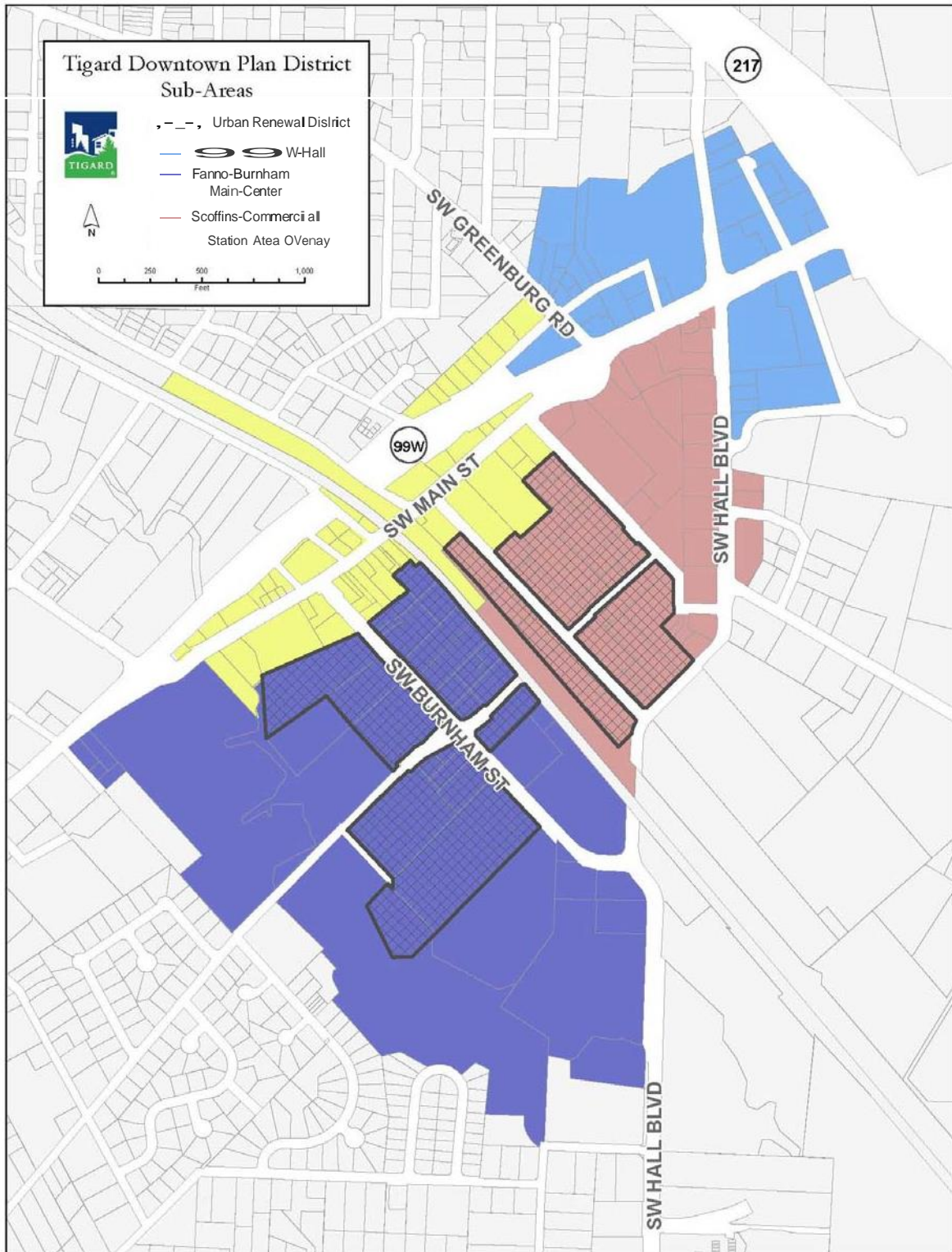
18.610.010	Purpose and Procedures
18.610.015	Pre-Existing Uses and Developments within the Downtown District
18.610.020	Building and Site Development Standards
18.610.025	Connectivity
18.610.030	Building and Site Design Standards
18.610.035	Additional Standards
18.610.040	Special Requirements for Development Bordering Urban Plaza
18.610.045	Exceptions to Standards
18.610.050	Building and Site Design Objectives (To Be Used With Track 3 Approval Process)
18.610.055	Signs
18.610.060	Off-Street Parking and Loading Requirements

18.610.020 Building and Site Development Standards

- A. Sub-areas. The four sub-areas located on Map 18.610.A and described below have different setback and height limits in order to create a feeling of distinct districts within the larger zone.
1. Highway 99W and Hall Boulevard Corridor. This sub-area is intended to create a “pulse-point” along the Highway 99W corridor. Located at the intersection of 99W and Hall Boulevard, the area has the high traffic and visibility to draw potential retail customers from the region. It will also serve the potential for future high capacity transit in the corridor. The area will accommodate higher levels of vehicular circulation, while maintaining a pedestrian scale at the ground-floor level of buildings. It would allow development of mixed use and retail buildings that could vary in scale from one-story retail-only buildings, to mixed use buildings up to ~~eight stories~~ **45 feet** tall with retail on the ground floor and residential and/or office uses above.
 2. Main Street - Center Street. This sub-area is centered on the city’s historic downtown Main Street. It is intended to be pedestrian oriented with smaller scale development that would function like a “traditional Main Street.” A pedestrian environment would be improved with a continuous building wall broken only intermittently. New buildings in the sub-area must include ground floors with commercial storefront features. Residential and commercial uses are permitted on upper floors.
 3. Scoffins Street - Commercial Street. This sub-area is intended to provide an opportunity for higher density residential as well as an employment base comprised of civic, office and commercial uses in the areas of Commercial Street and Scoffins. Residential-only buildings, office/commercial buildings, and mixed use developments are all permitted.

4. Fanno - Burnham Street. This sub-area provides an opportunity for medium scale residential or mixed use development. Compatible mixed uses (live-work, convenience retail, office and civic uses) are encouraged on the frontage of Burnham Street. The area in proximity to Fanno Creek Park will be an opportunity to create a high quality residential environment with views and access to the natural amenity of Fanno Creek Park. Building heights will step down to three stories so as not to overwhelm or cast shadows on the park.

Map 18.610.A: Tigard Downtown Plan District Sub-Areas



Note: for standards for development surrounding the future public plaza see Section 18.610.040, Special Requirements for Development Bordering Urban Plaza.

- B. Development standards. Development standards apply to all new development in the MU-CBD zone, including developments utilizing the Track 3 approval process. Variances or adjustments may be granted if the criteria found in Chapter 18.370 is satisfied.

1. Development standards matrix. See Table 18.610.1 and Map 18.610.A.

Table 18.610.1
MU-CBD Development Standards Matrix^{1, 2, 3}

STANDARD	SUB-AREAS			
	Main Street (MS)	99W/Hall Corridor (99H)	Scoffins/Commercial (SC)	Fanno/Burnham (FB)
Front setback				
Minimum	0 ft.	0/5 ft. (5 ft. for frontage on 99W)	0 ft.	0 ft.
Maximum	10 ft.	25 ft.	20 ft.	20 ft.
Side facing street on corner and through lots				
Minimum	0 ft.	0 ft.	0 ft.	0 ft.
Maximum	10 ft.	N/A	N/A	N/A
Sidyard				
Minimum/maximum	N/A	N/A	N/A	N/A
Rear setback				
Minimum	0 ft.	5 ft.	5 ft.	5 ft.
Maximum	N/A	N/A	N/A	N/A
Building height				
Minimum	20 ft.	20 ft.	20 ft.	20 ft.
Maximum	45 80 ft.	45 ft.	80 ft.	80 ft. ⁷
Ground floor height minimum	15 ft.	15 ft.	None	None
Site coverage maximum	100%	90%	90%	80%
Minimum landscaping ⁴	0% ⁵	10%	10%	20%
Minimum building frontage	50%	50%	50%	50%
Residential density (units per acre)				
Minimum ⁸	25	25	25	15
Maximum	50	50	50 ⁶	50 ⁶

¹ This table does not apply to existing development. All new buildings in the district must meet these development standards, including projects using the Track 3 approval process.

² For standards for development surrounding the future public plaza see Section 18.610.040, Special Requirements for Development Bordering Urban Plaza.

³ See also Section 18.610.045, Exceptions to Standards.

⁴ In the MU-CBD zone, required landscaping can be provided on roofs or within the right-of-way where the applicant is required to provide landscaping as part of a street improvement in accordance with Section 18.610.025.

⁵ Landscaping/screening requirements for parking lots must be met.

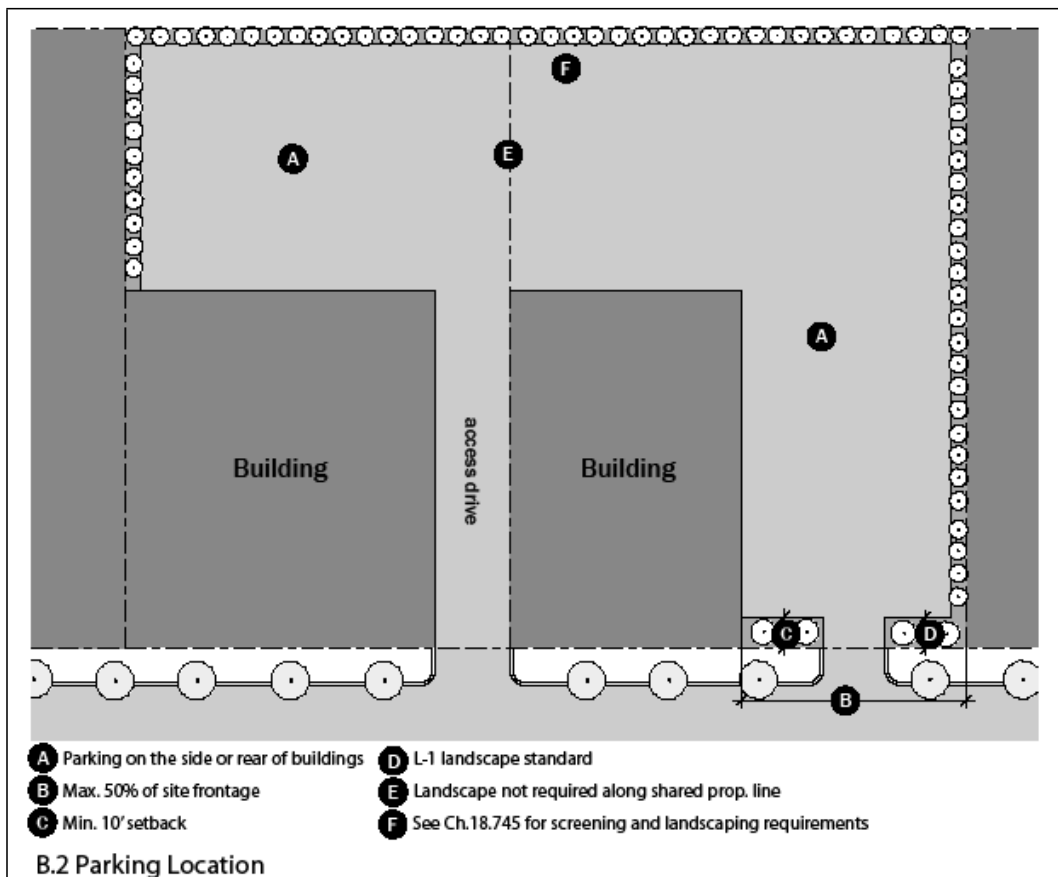
⁶ Station area overlay permits a maximum of 80 units per acre (see Map 18.610A).

⁷ 45 feet within 200 feet of Fanno Creek Park boundary (see Map 18.610.A) or within 50 feet of low or medium density residential district.

⁸ Minimum density applies to residential-only development (not mixed use).

2. Parking location.

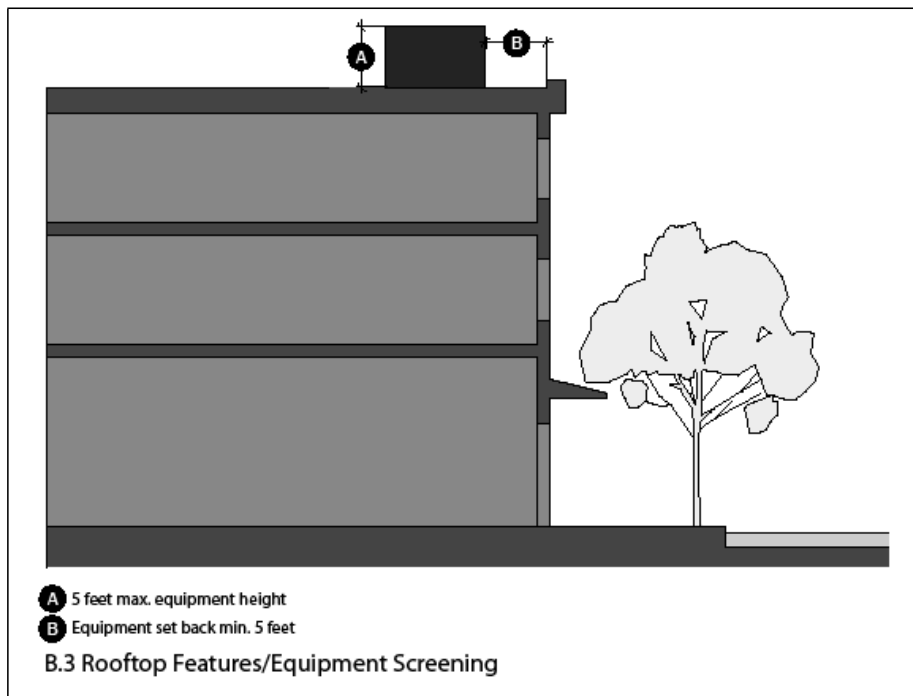
- a. Parking is allowed on the side or rear of newly constructed buildings. If located on the side, the parking area shall not exceed 50% of the total frontage of the site.
- b. Parking is set back a minimum of 10 feet from the front property line.
- c. When abutting a public street, parking areas must be behind a landscaped area constructed to an L-1 standard.
- d. Where a parking lot shares a property line with an adjacent parking lot, the landscape requirement along the shared property line is not required.

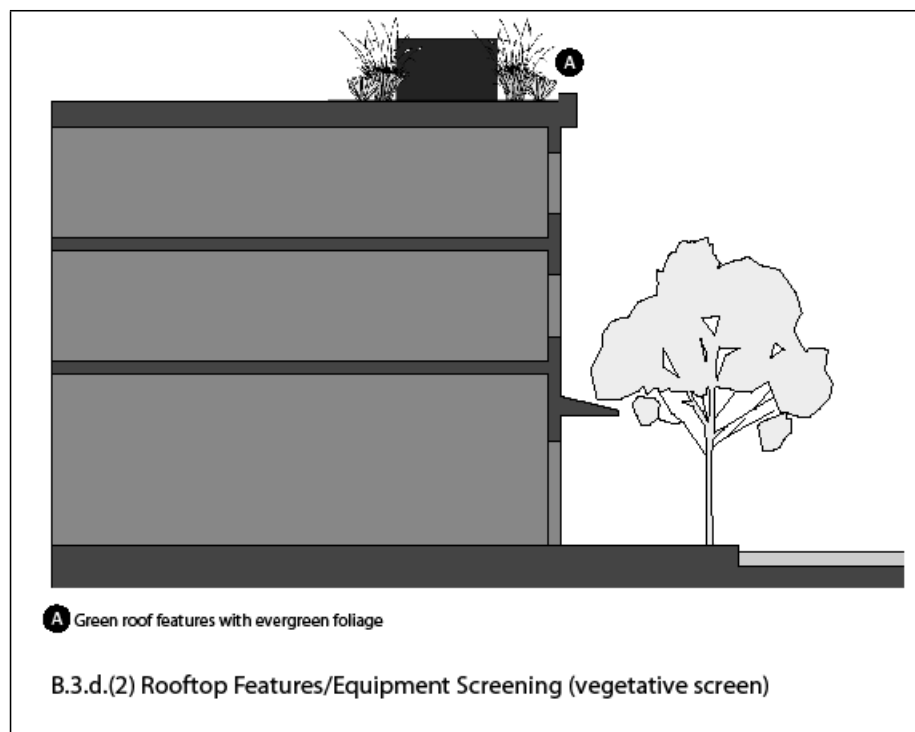
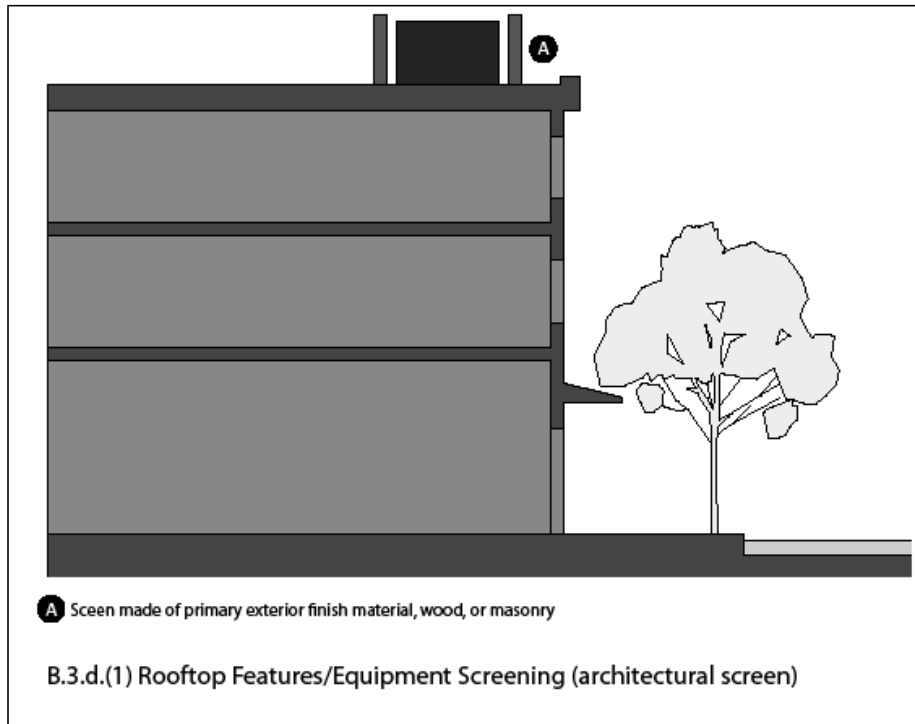


3. Rooftop features/equipment screening.

- a. The following rooftop equipment does not require screening:
 - i. Solar panels, wind generators, and green roof features;
 - ii. Equipment under two feet in height.
- b. Elevator mechanical equipment may extend above the height limit a maximum of 16 feet provided that the mechanical shaft is incorporated into the architecture of the building.

- c. Satellite dishes and other communications equipment shall be limited to 10 feet in height, shall be set back a minimum of five feet from the roof edge and screened from public view to the extent possible.
- d. All other roof-mounted mechanical equipment shall be limited to 10 feet in height, shall be set back a minimum of five feet from the roof edge and screened from public view and from views from adjacent buildings by one of the following methods:
 - i. A screen around the equipment that is made of a primary exterior finish material used on other portions of the building or architectural grade wood fencing or masonry;
 - ii. Green roof features or regularly maintained dense evergreen foliage that forms an opaque barrier when planted.
- e. Required screening shall not be included in the building's maximum height calculation.





4. Other exterior mechanical equipment. Other exterior mechanical equipment on the site (electrical boxes, etc.) shall be screened from view from adjacent ROW, public spaces, and parking areas by one or a combination of the following:
 - a. A screen around the equipment that is made of a primary exterior finish material used on other portions of the building or architectural grade wood fencing or masonry; or

- b. Set back from the street-facing elevation so it is not visible from the public ROW; or
- c. Dense evergreen foliage that forms an opaque barrier when planted that will be regularly maintained. (Ord. 15-05 §2; Ord. 13-04 §1; Ord. 12-13 §1; Ord. 10-02 §2)

DCA2016-00003
2016 OMNIBUS CODE AMENDMENT PACKAGE

Explanation of Formatting

These text amendments employ the following formatting:

~~Strikethrough~~ – Text to be deleted

[Bold, Underline and Italic] – Text to be added

Chapter 18.520
COMMERCIAL ZONING DISTRICTS

TABLE 18.520.1
 USE TABLE: COMMERCIAL ZONES

Household Living in the C-G zone is restricted (R) and subject to Footnote 11 as follows:

[11] A single-family unit providing that it is located on the same site with a permitted or conditional use ~~in~~ and is occupied exclusively by a caretaker or superintendent of the permitted or conditional use. Multifamily housing is permitted as part of a PD, subject to Chapter 18.350, **unless located within the Tigard Triangle Plan District, where it is permitted outright.**

Chapter 18.620
TIGARD TRIANGLE PLAN DISTRICT

Sections:

18.620.010 Purpose and Applicability

18.620.015 Where These Regulations Apply

18.620.018 Additional Allowed Use

18.620.020 Street Connectivity

18.620.030 Site Design Standards

18.620.040 Building Design Standards

18.620.050 Signs

18.620.060 Entry Portals

18.620.070 Landscaping and Screening

18.620.080 Street and Accessway Standards

18.620.090 Design Evaluation

18.620.018 Additional Allowed Use

In addition to the uses permitted by Chapter 18.520 Commercial Zoning Districts, multifamily dwelling units are permitted in the C-G zone. Minimum and maximum density requirements do not apply to these developments.

Except from Chapter 18.130 USE CATEGORIES**18.130.060 Commercial Use Categories****B. Animal-Related Commercial.**

1. Characteristics: Animal-Related uses are those engaged in breeding, and/or boarding of normal household pets. Limited animal sales may or may not be part of the use.
2. Accessory uses: Accessory uses commonly found include parking, office space, and storage space.
3. Examples: Examples include animal breeders, kennels, overnight boarding facilities, and a single dwelling unit exclusively occupied by an on-site caretaker or the kennel owner/operator and family.
4. Exceptions:
 - a. Facilities where the primary activity is animal sales shall be considered Sales-Oriented Retail.
 - b. Does not include animal grooming, which is considered Personal Services or Repair-Oriented Retail.
 - c. Does not include veterinary clinics, which are considered Office.
 - d. Does not apply to poultry or livestock, which are considered an Agriculture/Horticulture Use.
 - e. Overnight boarding facilities for household pets when these facilities and all their activities, with the exception of parking, are completely enclosed within a building, shall be considered Personal Service.

Excerpt from Chapter 18.510 RESIDENTIAL ZONING DISTRICTS**Sections:**

18.510.010	Purpose
18.510.020	List of Zoning Districts
18.510.030	Uses
18.510.040	Minimum and Maximum Densities
18.510.050	Development Standards
18.510.060	Accessory Structures

18.510.030 Uses

A. Types of uses. For the purposes of this chapter, there are four kinds of use:

1. A permitted (P) use is a use which is permitted outright, but subject to all of the applicable provisions of this title. If a use is not listed as a permitted use, it may be held to be a similar unlisted use under the provisions of Chapter 18.230.
2. A restricted (R) use is permitted outright providing it is in compliance with special requirements, exceptions or restrictions.
3. A conditional use (C) is a use the approval of which is discretionary with the Hearings Officer. The approval process and criteria are set forth in Chapters 18.310 and 18.320. If a use is not listed as a conditional use, it may be held to be a similar unlisted use under the provisions of Chapter 18.230.
4. A prohibited (N) use is one which is not permitted in a zoning district under any circumstances.

B. Use table. A list of permitted, restricted, conditional and prohibited uses in residential zones is presented in Table 18.510.1.

**TABLE 18.510.1
USE TABLE**

USE CATEGORY	R-1	R-2	R-3.5	R-4.5	R-7	R-12	R-25	R-40
RESIDENTIAL								
Household Living	P	P	P	P	P	P	P	P
Group Living	R ¹ /C	R ¹ /C	R ¹ /C	R ¹ /C	R ¹ /C	R ¹ /C	R ¹ /C	R ¹ /C
Transitional Housing	N	N	N	N	N	C	C	C
Home Occupation	R ²	R ²	R ²	R ²	R ²	R ²	R ²	R ²
HOUSING TYPES								
Single Units, Attached	N	N	N	R ⁸	R ⁹ /C	P	P	P
Single Units, Detached	P	P	P	P	P	P	P	P
Accessory Units	R ³	R ³	R ³	R ³	R ³	R ³	R ³	R ³
Duplexes	N	N	C	C	P	P	P	P
Multifamily Units	N	N	N	N	N	P	P	P
Manufactured Units	P	P	P	P	P	P	P	P
Mobile Home Parks/Subdivisions	N	N	C	C	P	P	P	P
CIVIC (INSTITUTIONAL)								
Basic Utilities	C ⁴	C ⁴	C ⁴	C ⁴	C ⁴	C ⁴	C ⁴	C ⁴
Colleges	C	C	C	C	C	C	C	C
Community Recreation	C	C	C	C	C	C	C	C
Cultural Institutions	N	N	C	C	C	C	N	N
Day Care	P/C ⁵	P/C ⁵	P/C ⁵	P/C ⁵	P/C ⁵	P/C ⁵	P/C ⁵	P/C ⁵
Emergency Services	C	C	C	C	C	N	N	N
Medical Centers	N	N	C	C	C	C	C	C
Postal Service	N	N	N	N	N	N	N	N
Public Support Facilities	P	P	P	P	P	P	P	P
Religious Institutions	C	C	C	C	C	C	C	C
Schools	C ¹²	C ¹²	C ¹²	C ¹²	C ¹²	C ¹²	C ¹²	C ¹²
Social/Fraternal Clubs/Lodges	N	N	N	N	N	C	C	C
COMMERCIAL								
Commercial Lodging	N	N	N	N	N	N	N	N
Custom Arts and Crafts	N	N	N	N	N	N	N	N
Eating and Drinking Establishments	N	N	N	N	N	N	N	N
Major Event Entertainment	C ¹³	C ¹³	C ¹³	C ¹³	C ¹³	C ¹³	C ¹³	C ¹³
Outdoor Entertainment	N	N	N	N	N	N	N	N
Indoor Entertainment	N	N	N	N	N	N	N	N
Adult Entertainment	N	N	N	N	N	N	N	N
Sales-Oriented	N	N	N	N	N	N	R ¹¹	R ¹¹
Personal Services	N	N	N	N	N	N	R ¹¹	R ¹¹
Repair-Oriented	N	N	N	N	N	N	R ¹¹	R ¹¹
Bulk Sales	N	N	N	N	N	N	N	N
Outdoor Sales	N	N	N	N	N	N	N	N
Animal-Related	N	N	N	N	N	N	N	N
Motor Vehicle Sales/Rental	N	N	N	N	N	N	N	N
Motor Vehicle Servicing/Repair	N	N	N	N	N	N	N	N
Vehicle Fuel Sales	N	N	N	N	N	N	N	N
Office	N	N	N	N	N	N	N	N
Self-Service Storage	N	N	N	N	N	N	N	N
Non-Accessory Parking	N	N	N	N	N	C ¹⁰	C ¹⁰	C ¹⁰

TABLE 18.510.1
USE TABLE (cont'd)

USE CATEGORY	R-1	R-2	R-3.5	R-4.5	R-7	R-12	R-25	R-40
INDUSTRIAL								
Industrial Services	N	N	N	N	N	N	N	N
Light Industrial	N	N	N	N	N	N	N	N
General Industrial	N	N	N	N	N	N	N	N
Heavy Industrial	N	N	N	N	N	N	N	N
Railroad Yards	N	N	N	N	N	N	N	N
Research and Development	N	N	N	N	N	N	N	N
Warehouse/Freight Movement	N	N	N	N	N	N	N	N
Waste-Related	N	N	N	N	N	N	N	N
Wholesale Sales	N	N	N	N	N	N	N	N
OTHER								
Agriculture/Horticulture	P ⁶	P ⁶	P ⁶	P ⁶	P ⁶	N	N	N
Cemeteries	N	N	C	C	C	N	N	N
Detention Facilities	N	N	N	N	N	N	N	N
Heliports	N	N	N	N	N	N	N	N
Mining	N	N	N	N	N	N	N	N
Wireless Communication Facilities	P/R ⁷	P/R ⁷	P/R ⁷	P/R ⁷	P/R ⁷	P/R ⁷	P/R ⁷	P/R ⁷
Transportation/Utility Corridors	C	C	C	C	C	C	C	C

P=Permitted

R=Restricted

C=Conditional Use

N=Not Permitted

¹Group living with five or fewer residents permitted by right; group living with six or more residents permitted as conditional use.

²Permitted subject to requirements Chapter 18.742.

³Permitted subject to compliance with requirements in 18.710.

⁴Except water, storm, sanitary sewers, and other underground infrastructure facilities, which are allowed by right.

⁵In-home day care which meets all state requirements permitted by right; freestanding day care centers which meet all state requirements permitted conditionally.

⁶When an agricultural use is adjacent to a residential use, no poultry or livestock, other than normal household pets, may be housed or provided use of a fenced run within 100 feet of any nearby residence except a dwelling on the same lot.

⁷See Chapter 18.798, Wireless Communication Facilities, for requirements for permitted and restricted facilities.

⁸Attached single-family units permitted only as part of an approved planned development.

⁹Permitted by right if no more than five units in a grouping; permitted conditionally if six or more units per grouping.

¹⁰Only park-and-ride and other transit-related facilities permitted conditionally.

¹¹Limited to ground-floor level of multi-family projects, not to exceed 10% of total gross square feet of the building. Animal boarding, even if enclosed within a building, is prohibited in residential zones.

¹²School bus parking is permitted on public high school sites as an accessory use if located a minimum of 200 feet from the nearest property line of any tax lot used for residential purposes. Maximum time limitation is three years. An extension to the time limit is possible through a major modification to the conditional use.

¹³Permitted as a conditional use on public school sites. (Ord. 15-05 §2; Ord. 10-15 §1; Ord. 07-12; Ord. 07-05)

Chapter 18.610
TIGARD DOWNTOWN PLAN DISTRICT

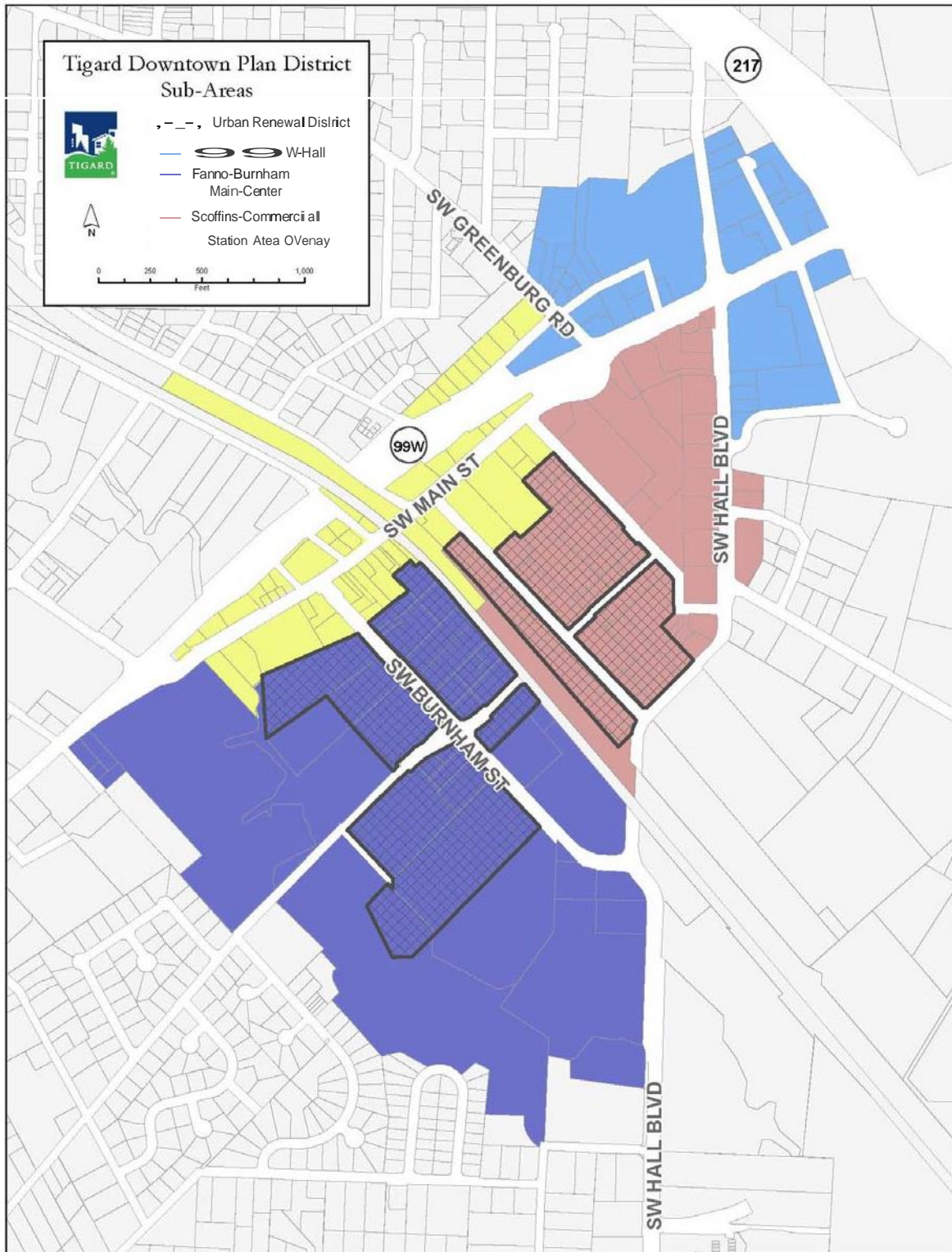
Sections:

18.610.010	Purpose and Procedures
18.610.015	Pre-Existing Uses and Developments within the Downtown District
18.610.020	Building and Site Development Standards
18.610.025	Connectivity
18.610.030	Building and Site Design Standards
18.610.035	Additional Standards
18.610.040	Special Requirements for Development Bordering Urban Plaza
18.610.045	Exceptions to Standards
18.610.050	Building and Site Design Objectives (To Be Used With Track 3 Approval Process)
18.610.055	Signs
18.610.060	Off-Street Parking and Loading Requirements

18.610.020 Building and Site Development Standards

- A. Sub-areas. The four sub-areas located on Map 18.610.A and described below have different setback and height limits in order to create a feeling of distinct districts within the larger zone.
1. Highway 99W and Hall Boulevard Corridor. This sub-area is intended to create a “pulse-point” along the Highway 99W corridor. Located at the intersection of 99W and Hall Boulevard, the area has the high traffic and visibility to draw potential retail customers from the region. It will also serve the potential for future high capacity transit in the corridor. The area will accommodate higher levels of vehicular circulation, while maintaining a pedestrian scale at the ground-floor level of buildings. It would allow development of mixed use and retail buildings that could vary in scale from one-story retail-only buildings, to mixed use buildings up to 45 feet tall with retail on the ground floor and residential and/or office uses above.
 2. Main Street - Center Street. This sub-area is centered on the city’s historic downtown Main Street. It is intended to be pedestrian oriented with smaller scale development that would function like a “traditional Main Street.” A pedestrian environment would be improved with a continuous building wall broken only intermittently. New buildings in the sub-area must include ground floors with commercial storefront features. Residential and commercial uses are permitted on upper floors.
 3. Scoffins Street - Commercial Street. This sub-area is intended to provide an opportunity for higher density residential as well as an employment base comprised of civic, office and commercial uses in the areas of Commercial Street and Scoffins. Residential-only buildings, office/commercial buildings, and mixed use developments are all permitted.
 4. Fanno - Burnham Street. This sub-area provides an opportunity for medium scale residential or mixed use development. Compatible mixed uses (live-work, convenience retail, office and civic uses) are encouraged on the frontage of Burnham Street. The area in proximity to Fanno Creek Park will be an opportunity to create a high quality residential environment with views and access to the natural amenity of Fanno Creek Park. Building heights will step down to three stories so as not to overwhelm or cast shadows on the park.

Map 18.610.A: Tigard Downtown Plan District Sub-Areas



Note: for standards for development surrounding the future public plaza see Section 18.610.040, Special Requirements for Development Bordering Urban Plaza.

- B. Development standards. Development standards apply to all new development in the MU-CBD zone, including developments utilizing the Track 3 approval process. Variances or adjustments may be granted if the criteria found in Chapter 18.370 is satisfied.

1. Development standards matrix. See Table 18.610.1 and Map 18.610.A.

Table 18.610.1
MU-CBD Development Standards Matrix^{1, 2, 3}

STANDARD	SUB-AREAS			
	Main Street (MS)	99W/Hall Corridor (99H)	Scoffins/Commercial (SC)	Fanno/Burnham (FB)
Front setback				
Minimum	0 ft.	0/5 ft. (5 ft. for frontage on 99W)	0 ft.	0 ft.
Maximum	10 ft.	25 ft.	20 ft.	20 ft.
Side facing street on corner and through lots				
Minimum	0 ft.	0 ft.	0 ft.	0 ft.
Maximum	10 ft.	N/A	N/A	N/A
Sidyard				
Minimum/maximum	N/A	N/A	N/A	N/A
Rear setback				
Minimum	0 ft.	5 ft.	5 ft.	5 ft.
Maximum	N/A	N/A	N/A	N/A
Building height				
Minimum	20 ft.	20 ft.	20 ft.	20 ft.
Maximum	80 ft.	45 ft.	80 ft.	80 ft. ⁷
Ground floor height minimum	15 ft.	15 ft.	None	None
Site coverage maximum	100%	90%	90%	80%
Minimum landscaping ⁴	0% ⁵	10%	10%	20%
Minimum building frontage	50%	50%	50%	50%
Residential density (units per acre)				
Minimum ⁸	25	25	25	15
Maximum	50	50	50 ⁶	50 ⁶

¹ This table does not apply to existing development. All new buildings in the district must meet these development standards, including projects using the Track 3 approval process.

² For standards for development surrounding the future public plaza see Section 18.610.040, Special Requirements for Development Bordering Urban Plaza.

³ See also Section 18.610.045, Exceptions to Standards.

⁴ In the MU-CBD zone, required landscaping can be provided on roofs or within the right-of-way where the applicant is required to provide landscaping as part of a street improvement in accordance with Section 18.610.025.

⁵ Landscaping/screening requirements for parking lots must be met.

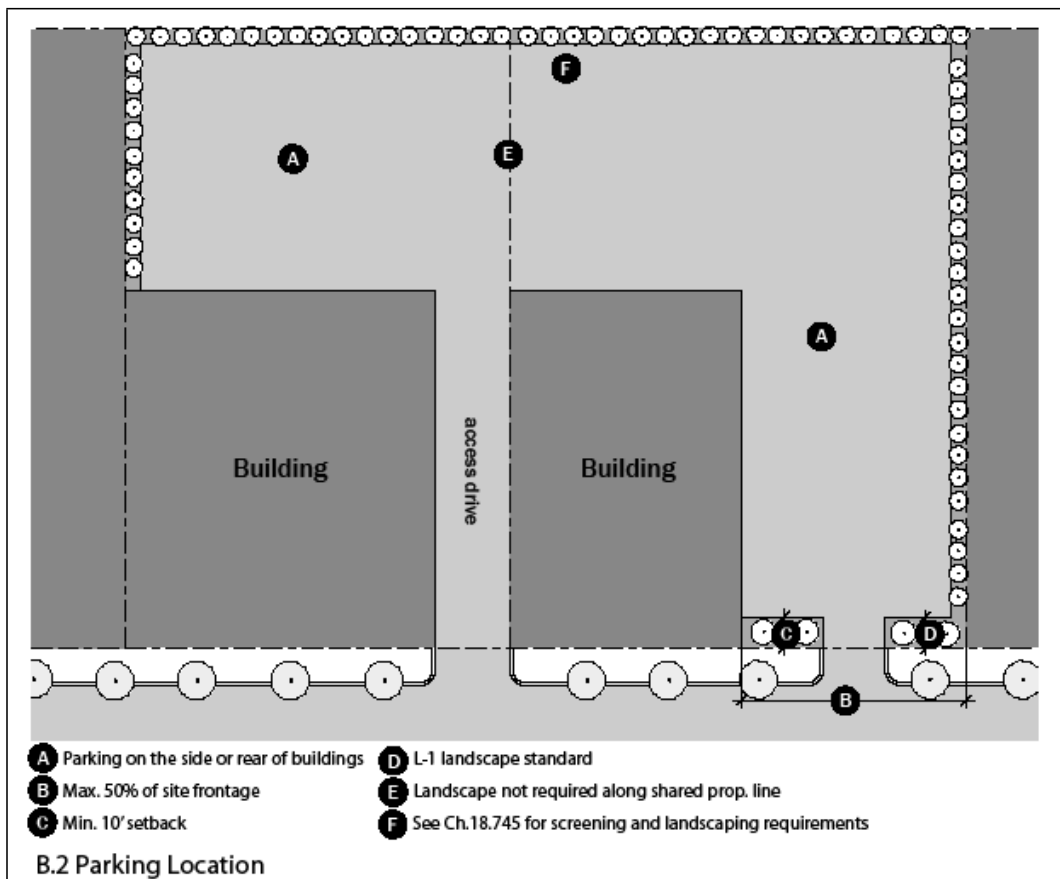
⁶ Station area overlay permits a maximum of 80 units per acre (see Map 18.610A).

⁷ 45 feet within 200 feet of Fanno Creek Park boundary (see Map 18.610.A) or within 50 feet of low or medium density residential district.

⁸ Minimum density applies to residential-only development (not mixed use).

2. Parking location.

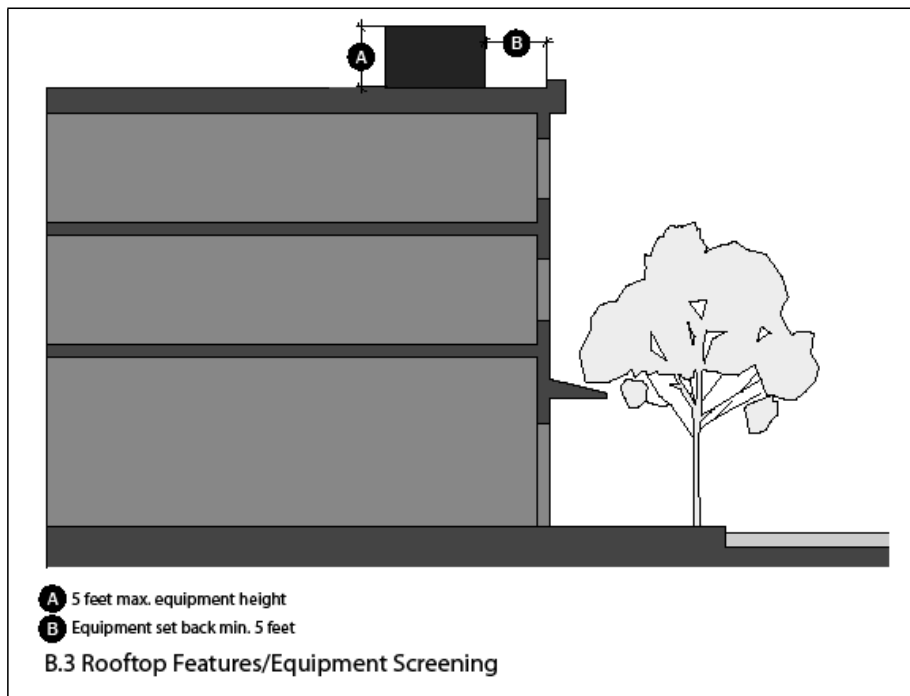
- a. Parking is allowed on the side or rear of newly constructed buildings. If located on the side, the parking area shall not exceed 50% of the total frontage of the site.
- b. Parking is set back a minimum of 10 feet from the front property line.
- c. When abutting a public street, parking areas must be behind a landscaped area constructed to an L-1 standard.
- d. Where a parking lot shares a property line with an adjacent parking lot, the landscape requirement along the shared property line is not required.

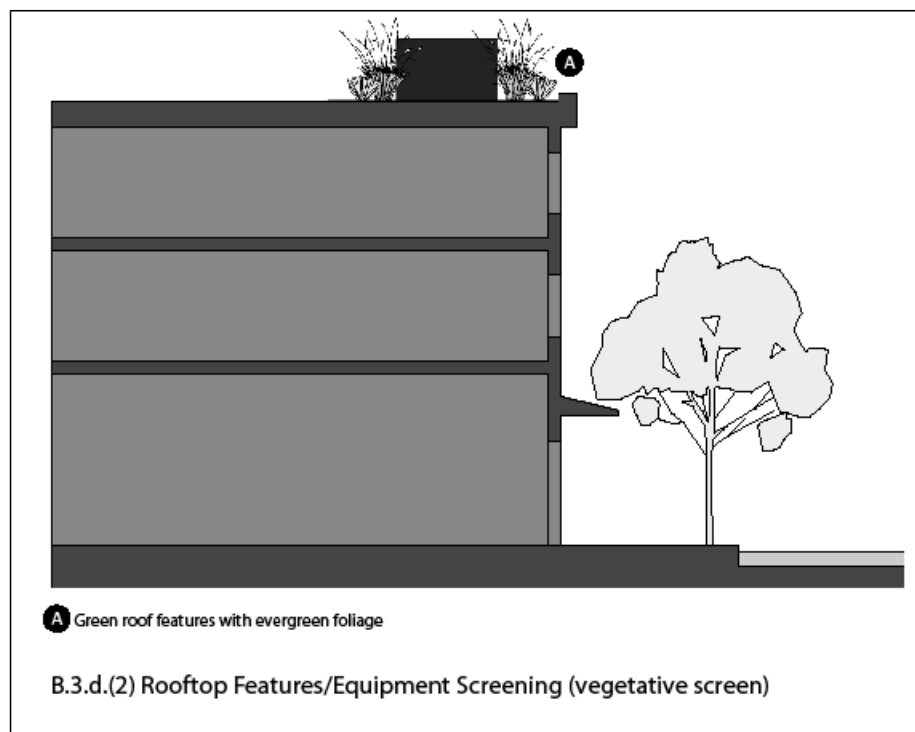
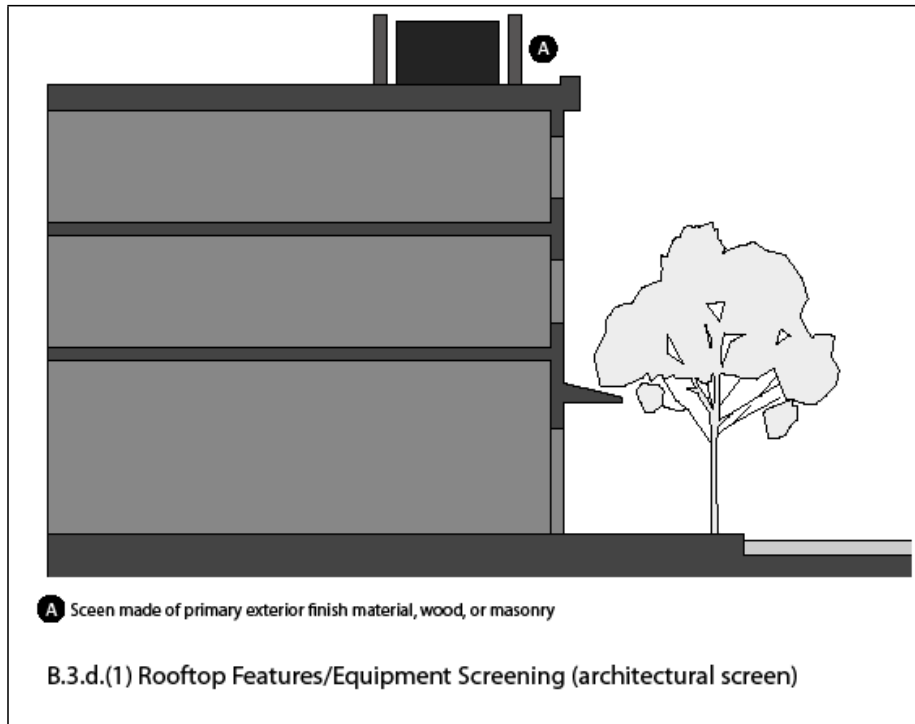


3. Rooftop features/equipment screening.

- a. The following rooftop equipment does not require screening:
 - i. Solar panels, wind generators, and green roof features;
 - ii. Equipment under two feet in height.
- b. Elevator mechanical equipment may extend above the height limit a maximum of 16 feet provided that the mechanical shaft is incorporated into the architecture of the building.

- c. Satellite dishes and other communications equipment shall be limited to 10 feet in height, shall be set back a minimum of five feet from the roof edge and screened from public view to the extent possible.
- d. All other roof-mounted mechanical equipment shall be limited to 10 feet in height, shall be set back a minimum of five feet from the roof edge and screened from public view and from views from adjacent buildings by one of the following methods:
 - i. A screen around the equipment that is made of a primary exterior finish material used on other portions of the building or architectural grade wood fencing or masonry;
 - ii. Green roof features or regularly maintained dense evergreen foliage that forms an opaque barrier when planted.
- e. Required screening shall not be included in the building's maximum height calculation.





4. Other exterior mechanical equipment. Other exterior mechanical equipment on the site (electrical boxes, etc.) shall be screened from view from adjacent ROW, public spaces, and parking areas by one or a combination of the following:
 - a. A screen around the equipment that is made of a primary exterior finish material used on other portions of the building or architectural grade wood fencing or masonry; or

- b. Set back from the street-facing elevation so it is not visible from the public ROW; or
- c. Dense evergreen foliage that forms an opaque barrier when planted that will be regularly maintained. (Ord. 15-05 §2; Ord. 13-04 §1; Ord. 12-13 §1; Ord. 10-02 §2)

Excerpt from Chapter 18.520 COMMERCIAL ZONING DISTRICTS**Sections:**

18.520.010	Purpose
18.520.020	List of Zoning Districts
18.520.030	Uses
18.520.040	Development Standards
18.520.050	Special Limitations on Uses
18.520.060	Additional Development and Design Guidelines

18.520.030 Uses

A. Types of uses. For the purposes of this chapter, there are four kinds of use:

1. A permitted (P) use is a use which is permitted outright, but subject to all of the applicable provisions of this title. If a use is not listed as a permitted use, it may be held to be a similar unlisted use under the provisions of Section 18.130.030.
2. A restricted (R) use is permitted outright providing it is in compliance with special requirements, exceptions or restrictions.
3. A conditional (C) use is a use the approval of which is at the discretion of the Hearings Officer. The approval process and criteria are set forth in Chapter 18.370. If a use is not listed as a conditional use, it may be held to be a similar unlisted use under the provisions of Section 18.130.030.
4. A prohibited (N) use is one which is not permitted in a zoning district under any circumstances.

B. Use table. A list of permitted, restricted, conditional and prohibited uses in commercial zones is presented in Table 18.520.1.

C. Accessory structures.

1. Accessory structures are permitted in all commercial zones providing the site is still in compliance with all development standards, including but not limited to setbacks, height, lot coverage and landscaping requirements, of the base zone. All accessory structures shall comply with all requirements of the state building code.
2. All freestanding and detached towers, antennas, wind-generating devices and TV receiving dishes, except as otherwise regulated by Chapter 18.798, Wireless Communication Facilities, shall have setbacks equal to or greater than the height of the proposed structure. Suitable protective anti-climb fencing and a landscaped planting screen, in accordance with Chapter 18.745, Landscaping and Screening, shall be provided and maintained around these structures and accessory attachments. (Ord. 10-15 §1; Ord. 09-13)

TABLE 18.520.1
USE TABLE: COMMERCIAL ZONES

USE CATEGORY	C-N ^[1, 4]	C-C ^[5, 10]	C-G	C-P	MU-CBD ^[19, 38]	MUE ^[20]	MUC-1	MUC ^[28]	MUE 1 and 2 ^[28]	MUR 1 and 2 ^[28]
RESIDENTIAL										
Household Living	N	R ^[6]	R ^[11]	R	P	R ^[21]	P ^[26]	P	P	P
Group Living	N	N	C	N	P	N	C	R ^{[29]/C}	R ^{[29]/C}	R ^{[29]/C}
Transitional Housing	N	N	C	N	C	N	C	C	C	C
Home Occupation	R ^[2]	R ^[2]	R ^[2]	R ^[2]	R ^[2]	R ^[2]	P	R ^[2]	R ^[2]	R ^[2]
HOUSING TYPES										
Single Units, Attached	N/A	N/A	N/A	N/A	P	N/A	N/A	R ^[30]	R ^[30]	P
Single Units, Detached	N/A	N/A	N/A	N/A	N/A	N/A	N/A	R ^[30]	R ^[30]	R ^[30]
Accessory Units	N/A	N/A	N/A	N/A	N/A	N/A	N/A	R ^[31]	R ^[31]	R ^[31]
Duplexes	N/A	N/A	N/A	N/A	N/A	N/A	N/A	R ^[30]	R ^[30]	P
Multifamily Units	N/A	N/A	N/A	N/A	P	N/A	N/A	P	P	P
Manufactured Units	N/A	N/A	N/A	N/A	P	N/A	N/A	N	N	N
Mobile Home Parks, Subdivisions	N/A	N/A	N/A	N/A	R ^[36]	N/A	N/A	N	N	N
CIVIC (INSTITUTIONAL)										
Basic Utilities	C	C ^[32]	C ^[32]	C	C	C	C	C ^[32]	C ^[32]	C ^[32]
Colleges	N	N	N	N	P	C	C	C	C	C
Community Recreation	N	P	N	N	P	C	N	P	C	C
Cultural Institutions	P	P	P	P	P	P	P	P	P	N
Day Care	P	P	P	P	P	P	P	P	P	P/C ^[33]
Emergency Services	P	P	P	P	P	P	P	P	P	N
Medical Centers	C	N	C	C	C	C	C	C	C	C
Postal Service	P	P	P	P	P	P	P	P	P	N
Public Support Facilities	P	P	P	P	P	P	P	P	P	P
Religious Institutions	C	C	P	P	P	P	P	P	P	C
Schools	N	N	N	N	P	C	C	C	C	C
Social/Fraternal Clubs/Lodges	C	C	P	P	P	P	P	P	P	C
COMMERCIAL										
Commercial Lodging	N	N	P	R ^[14]	P	P	P	P	P	N
Custom Arts and Crafts	N	N	N	N	P ^[39]	N	N	N	N	N
Eating and Drinking Establishments	C	P	P	R ^[15]	P	P	P	P	P	R ^[34/35]

USE CATEGORY	C-N ^[1, 4]	C-C ^[5, 10]	C-G	C-P	MU-CBD ^[19 38]	MUE ^[20]	MUC-1	MUC ^[28]	MUE 1 and 2 ^[28]	MUR 1 and 2 ^[28]
COMMERCIAL (cont'd.)										
Major Event Entertainment	N	N	C	N	C	N	C	C	N	N
Outdoor Entertainment	N	N	P	R ^[15]	C	N	N	C	N	N
Indoor Entertainment	P	P	P	P	P	P	P	P	P	N
Adult Entertainment	N	N	C	N	N	N	N	C	N	N
Sales-Oriented	P	P ^[7]	P	R ^[16]	P/R ^[37]	R ^[22]	R ^[25]	P	R ^[22]	R ^[34/35]
Personal Services	P	P	P	P	P	R ^[22]	R ^[25]	P	R ^[22]	R ^[34/35]
Repair-Oriented	P	P	P	N	P	R ^[22]	R ^[25]	R ^[22]	R ^[22]	N
Bulk Sales	N	N	P	N	R ^[36]	R ^[22]	R ^[25]	R ^[22]	R ^[22]	N
Outdoor Sales	N	N	P	N	N	N	N	N	N	N
Animal-Related	N	N	N	N	N	P	P	N	N	N
Motor Vehicle Sales/Rental	N	N	P/C ^[12]	N	R ^[36]	N	N	R ^[24]	R ^[24]	N
Motor Vehicle Servicing/Repair	N	C ^[8]	P/C ^[12]	N	C	R ^[22]	R ^[25]	N	N	N
Vehicle Fuel Sales	C	C	C	N	R ^[36]	N	C	C	C	N
Office	P	R ^[9]	P	P	P	P	P	P	P	R ^[34/35]
Self-Service Storage	N	N	C	N	R ^[36]	N	N	N	N	N
Non-Accessory Parking	C	C	P	P	P	P	P	P	P	N
INDUSTRIAL										
Industrial Services	N	N	N	N	N	N	N	N	N	N
Light Industrial	N	N	N	N	N	R ^[23]	N	N	R ^[23]	N
General Industrial	N	N	N	N	N	N	N	N	N	N
Heavy Industrial	N	N	N	N	N	N	N	N	N	N
Railroad Yards	N	N	N	N	N	N	N	N	N	N
Research and Development	N	N	N	N	C	R ^[24]	R ^[24]	N	R ^[23]	N
Warehouse/Freight Movement	N	N	N	N	N	R ^[24]	N	N	R ^[23/24]	N
Waste-Related	N	N	N	N	N	N	N	N	N	N
Wholesale Sales	N	N	N	N	N	N	N	N	R ^[23/24]	N
OTHER										
Agriculture/Horticulture	N	N	N	N	N	N	N			
Cemeteries	N	N	N	N	N	N	N			
Detention Facilities	N	N	C	N	C	N	N			
Heliports	N	N	C	C	N	N	N			
Mining	N	N	N	N	N	N	N			

USE CATEGORY	C-N ^[1, 4]	C-C ^[5, 10]	C-G	C-P	MU-CBD ^[19, 38]	MUE ^[20]	MUC-1	MUC ^[28]	MUE 1 and 2 ^[28]	MUR 1 and 2 ^[28]
OTHER (cont'd.)										
Wireless Communication Facilities	P/R ^[3]	P/R ^[3]	P/R ^[3]	P/R ^[3]	P/R ^[3]	P/R ^[3]	P/R ^[27]			
Transportation/Utility Corridors	P	P	P	P	P	P	P	P	P	P

P=Permitted R=Restricted C=Conditional Use NA=Not Applicable N=Not Permitted

- [1] All permitted and conditional uses subject to special development standards contained in 18.520.050.A.
- [2] Permitted subject to requirements Chapter 18.742.
- [3] See Chapter 18.798 Wireless Communication Facilities, requirements for permitted and restricted facilities.
- [4] Uses operating before 7 a.m. and/or after 10 p.m. are conditional uses.
- [5] All permitted, limited and conditional uses must meet special development standards in 18.520.050.B.
- [6] Residential units permitted by right, as a mixed use in conjunction with a commercial development, on or above the second floor of the structure, at densities not to exceed 12 units/net acre.
- [7] Limited to 10,000 gross square feet in size, except retail food and beverage outlets, which are limited to 40,000 gross square feet or less.
- [8] Limited to motor vehicle cleaning only.
- [9] When combined in single structure, each separate establishment shall not exceed 5,000 gross square feet.
- [10] Uses operating before 6 a.m. and/or after 11 p.m.; or drive-up windows are conditional uses.
- [11] A single-family unit providing that it is located on the same site with a permitted or conditional use in and is occupied exclusively by a caretaker or superintendent of the permitted or conditional use. Multifamily housing is permitted as part of a PD, subject to Chapter 18.350, unless located within the Tigard Triangle Plan District, where it is permitted outright.
- [12] Cleaning, sales and repair of motor vehicles and light equipment is permitted outright; sales and rental of heavy vehicles and farm equipment and/or storage of recreational vehicles and boats permitted conditionally.
- [13] (Deleted by Ord. 09-13)
- [14] Restaurant permitted with restriction in size in conjunction with and on the same parcel as a commercial lodging use.
- [15] As accessory to offices or other permitted uses, the total space devoted to a combination of retail sales and eating/drinking establishments may not exceed more than 20% of the entire square footage within the development complex.
- [16] May not exceed 10% of the total square footage within an office complex.
- [17] Single-family attached and multi-family residential units, developed at R-40 standards, except the area bounded by Fanno Creek, Hall Boulevard, O'Mara, Ash Avenue and Hill Street, within which property zoned for CBD development which shall be designated R-12 PD and shall be developed as planned developments in conformance with the R-12 District standards.
- [18] Motor vehicle cleaning only.
- [19] Drive-up windows are permitted to continue if the property had one lawfully in existence prior to the adoption of the MU-CBD designation. Otherwise, not permitted.
- [20] All permitted and conditional uses subject to special development standards contained in 18.520.050.C.
- [21] Multifamily residential, at 25 units/gross acre, allowed outright. Pre-existing detached and attached single-family dwellings are permitted outright.
- [22] New retail and sales uses may not exceed 60,000 gross leasable area per building within the Washington Square Regional Center or Tigard Triangle except for those areas zoned C-G at the time the MUE zoning district was adopted in the Tigard Triangle.
- [23] All activities associated with this use, except employee and customer parking, shall be contained within buildings.
- [24] Permitted as accessory to a permitted use as long as this use is contained within the same building as the permitted use, and does not exceed the floor area of the permitted use.
- [25] Permitted provided the use is no larger than 60,000 square feet of gross floor area per building or business.
- [26] Household living limited to single units, attached, and multifamily including but not limited to apartments, attached condominiums, townhouses and rowhouses at a minimum density of 25 dwelling units per acre and a maximum density of 50 dwelling units per acre.
- [27] Wireless only as attached to structure within height limit, see Chapter 18.798.
- [28] All Permitted and Conditional Uses subject to special development standards contained in Chapter 18.630.
- [29] Group living with five or fewer residents permitted by right; group living with six or more residents permitted as conditional use.
- [30] Pre-existing housing units permitted. Conversion of pre-existing housing units to other uses is subject to the requirements of Chapter 18.630.
- [31] Permitted for pre-existing housing units, subject to requirements Chapter 18.710.
- [32] Except water, storm, sanitary sewers, and other underground infrastructure facilities, which are allowed by right.
- [33] In-home day care which meets all state requirements permitted by right; freestanding day care centers which meet all state requirements permitted conditionally.
- [34] This use is allowed only in mixed-use developments in the Washington Square Regional Center. Commercial uses shall occupy no more than 50% of the total floor area within the mixed-use development, and shall be permitted only when minimum residential densities are met. An exception to the requirement that commercial uses may be permitted only if residential minimum densities are met is provided for properties zoned commercial prior to implementation of the Washington Square Regional Center Plan (3/28/2002). The exempted properties are identified as assessor map number: 1S135AA-00400, 1S135AA-01400, 1S135AA-01900, 1S1AA-01901, 1S135DA-02000, 1S135AA-02500, 1S135AA-02600, 1S135AA-02700, 1S135DA-01900, and 1S1DA-02000. These parcels, or parcels created from these parcels, after the effective date of this ordinance, may be developed as a solely commercial use with a use permitted in the MUR-1 or MUR-2 zones.
- [35] The maximum building footprint size permitted for any building occupied entirely by a commercial use or uses shall be 7,500 square feet. An exception to the limit on the size of a building occupied by commercial uses is provided for properties zoned commercial prior to implementation of the Washington Square Regional Center Plan (3/28/2002). The exempted properties are identified as assessor map number: 1S135AA-00400, 1S135AA-01400, 1S135AA-01900, 1S1AA-01901, 1S135DA-02000, 1S135AA-02500, 1S135AA-02600, 1S135AA-02700, 1S135DA-01900, and 1S1DA-02000. On these parcels, or parcels created from these parcels, after the effective date of this ordinance, a commercial development is not limited to a specific square footage, however, all other dimensional standards of the MUR-1 and MUR-2 zoning district apply which may limit the ultimate size of commercial development.
- [36] Only for properties that were lawfully in existence (as permitted, conditional, or planned development) prior to the adoption of the MU-CBD designation.
- [37] New retail and sales uses may not exceed 60,000 square feet of gross leasable area per building in all subareas except 99W/Hall Corridor subarea. (See Map 18.610.A)
- [38] All developments subject to Chapter 18.610, Downtown Urban Renewal Standards, and Map 18.610.A.
- [39] Custom Arts and Crafts uses may not exceed 500 square feet of production area.

(Ord. 15-05 §2; Ord. 10-15 §1; Ord. 10-02 §2; Ord. 09-13; Ord. 02-32

Excerpt from Chapter 18.620 TIGARD TRIANGLE PLAN DISTRICT

Sections:

18.620.010 Purpose and Applicability
18.620.015 Where These Regulations Apply
18.620.018 Additional Allowed Use
18.620.020 Street Connectivity
18.620.030 Site Design Standards
18.620.040 Building Design Standards
18.620.050 Signs
18.620.060 Entry Portals
18.620.070 Landscaping and Screening
18.620.080 Street and Accessway Standards
18.620.090 Design Evaluation

18.620.018 Additional Allowed Use

In addition to the uses permitted by Chapter 18.520 Commercial Zoning Districts, multifamily dwelling units are permitted in the C-G zone. Minimum and maximum density requirements do not apply to these developments.

Tigard Planning Commission
City of Tigard
13125 SW Hall Boulevard
Tigard, OR 97232

October 13, 2016

Re: **Item # 7 - 2016 Omnibus Development Code Amendment Package**
Development Code Amendment (DCA) 2016-00003

Dear President Fitzgerald and Commissioners:

This firm represents Gordon R. Martin, Trustee of the Tri-County Center Trust (the "Trust"), which owns property within the Tigard Triangle and who would be affected by the code changes proposed in the above referenced item. Please accept these comments into the record and consider them at your October 17, 2016, hearing on this matter. For the reasons discussed below, we urge the Commission to not recommend adoption of the changes to allow multi-family residential on C-G zoned land in the Tigard Triangle.

The omnibus Development Code Amendments involve a number of proposed changes to the Tigard Community Development Code, but our concerns are specifically regarding the third aspect of the request – the proposal to amend CDC Chapter 18.620 Tigard Triangle Plan District and Chapter 18.520 Commercial Zoning Districts to allow multi-family dwelling units within the General Commercial (C-G) and the Mixed Use Employment (MUE) zones in the Tigard Triangle Plan District. This letter identifies several issues, but is also supplemented by a copy of the March 30, 2015, letter sent by Steve Martin to Cheryl Caines, attached as Exhibit 1. The issues identified in that letter still have not been addressed and the Planning Commission should consider those issues before taking any further action on this matter.

To set the context for this request, it is important to note there are now approximately 28 underdeveloped CG acres within the Tigard Triangle. Of that total, at least 10 acres have wetlands, creeks or other concerns or restrictions related to wetlands and water. Of the remaining 18 underdeveloped CG acres in the Triangle about 8 acres are in excellent position near the focal point of the Tigard Triangle (the Dartmouth Street/72nd Avenue intersection) and adjacent to a major retail area and the core retail area of the Tigard Triangle. These approximate eight acres consist of TL100, TL101, TL300, TL400, TL401, and TL402. These tax lots are essentially bounded by Wal-Mart, Dartmouth Street, 72nd Avenue, and the Hermosa lots. As a percentage, this represents about half the available underdeveloped CG acreage in the Tigard

Triangle. It also represents almost all of the best located CG acreage in the Triangle, if not the entire Portland region. Because of that concentration of acreage, the proposed addition of Multi-dwelling units to areas zoned CG will primarily affects the underdeveloped acres near the focal point of the Triangle.

Amending the district to allow multi-family dwelling units will have a significant impact on the development of the Triangle and would allow the development of property to have a completely different purpose, buildings, setbacks, and landscape than CG without the possibility of multi-family dwelling units. Any new setbacks required because of the zone change could also cause a loss in value to TL100 as well as TL401.

The reality is that retailers prefer to locate within retail areas. Adding multi-family dwelling units will destroy the atmosphere of the big box retail center area that can currently be developed and is expected adjacent to Wal-Mart. Further, if TL300 is allowed to, and does, build multi-dwelling units, this will adversely affect the ability of TL401 to attract big box retailers as it will be located behind multi-family dwelling units. In effect, this would force TL401 to forego big box and other retail development and be left with little choice but to consider primarily multi-family dwelling units or office use, which is contrary to the vision in the recently adopted Tigard Triangle Strategic Plan, adopted in 2015. It is also contrary to the substantial assessments that were paid to the Dartmouth Street LID in anticipation of attracting major retailers.

The proposed change to the CG zoning will cause real financial damage to some CG zoned land by significantly reducing its marketability as retail and especially big box retail. The purpose behind zoning is to keep like uses next to each other and this proposal throws this concept out the door. Development has not previously occurred largely due the size of the development area and the traffic capacity of the Triangle Portals that was recently increased with Wal-Mart funding. Also, allowing multi-family dwelling units on CG zoned land could result in retail on TL401 and TL100 surrounding a residential area, which would not be beneficial to either the retail or the residential area. Attracting a big box retailer to TL401 will require that TL300 cannot have the option to develop as multi-family dwelling units. This result should only occur with the concurrence of all the property owners that could be negatively affected, otherwise it should not be applied to the underdeveloped CG zoned land in the focal point of the Triangle that was subject to the Dartmouth Street LID.

The allowance of new uses also ignores the history of how the Triangle developed. The 8 acres of CG land near the focal point of the Triangle donated 20 feet of ROW along 72nd Avenue and Dartmouth Street to the City because the land was zoned CG and could be developed as big box retail. Perhaps more importantly, most of the 8 acres of underdeveloped land near the focal point of the Triangle were subject to significant assessments to pay for the construction of Dartmouth Street as it now exists. The assessments were based upon land area that was also zoned Commercial General – residential properties were not subject to assessment. Adding multi-family dwelling units will create a significant change that should only be considered with the concurrence of the adjacent property owners that paid into the Dartmouth LID. Property that

October 13, 2016

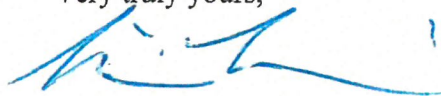
Page 3

was assessed as Commercial General could essentially be forced (due to retail considerations) to consider only multi-family uses because adjacent property built multi-family dwelling units and this amounts to an unintended restriction being placed upon CG zoned property that was expected to promote and become office or big box retail.

Moreover, allowing for this type of development will impact some lots more than others. For example, allowing a residential or a mixed use on TL300 will block the view of TL401 from Dartmouth Street, making it much less attractive for retail use due to a non-retail atmosphere if next to multi-family dwelling units. This is in part due the view corridor to the site being blocked by multi-family dwelling units due to different building standards than office or retail would have.

In summary, changing the zoning in the Triangle to allow for multi-family housing will have real impacts on current property owners who made significant sacrifices to encourage the development of the Triangle. This change should not be made without fully understanding the ramifications and impacts caused by these changes. Accordingly, we ask the Commission to not recommend approval of the third aspect of these proposed code changes at this time.

Very truly yours,



Bill Kabeiseman

BK:

CC:

H:\BKab\Letter - with logo.doc

Cheryl Caines
Associate Planner
City of Tigard

March 30, 2015

Hello Cheryl,

The following analysis and review of the December 2014 Draft of the Tigard Triangle Strategic Plan Option 2, reveals severe problems are expected with the implementation of the Plan as currently envisioned. The interim period between build-out today and full build-out will likely see development stopped due to inadequate Triangle traffic portal capacity. Determining and increasing the Triangle portal capacity is essential to effectively address development density limitations in the Triangle MUE zone, whereas allocation of development density is best kept fair by equally sharing it amongst all MUE property.

The Tigard Triangle Strategic Plan Option 2 proposed zone changes and their effect from an acreage viewpoint in relation to the approximate 375 (CG and MUE zone as shown within the Triangle of the Plan) acres in the City of Tigard portion of the Tigard Triangle is summarized as follows:

- ✓ A new zone designated as MUT (Mixed-Use Triangle) be established and the existing MUE (Mixed Use Employment) zone is converted to MUT thus leaving two primary type zones in the Triangle MUT & CG.
- ✓ The new MUT zone is to have four subareas as follows: [a] a MUT-MU (Mixed Use Triangle-Mixed Use Residential); [b] a MUT-MUC (Mixed Use Triangle-Mixed Use Core); [c] a MUT-CR (Mixed Use Triangle-Core Residential; and [d] a MUT-CS (Mixed Use Triangle-Campus);
- ✓ Using rough estimates since I was unable to locate precise acreage totals, out of a total of about 200 acres in the existing MUE zone about 56 acres are to be rezoned to the said new MUT-MU subarea, about 65 acres are to be rezoned to the new MUT-MUC subarea, about 37 acres are to be rezoned to the new MUT-CR subarea, and about 42 acres are to be rezoned to the new MUT-CS subarea;
- ✓ Again using rough estimates, out of a total of about 175 acres in the existing CG zone, approximately 34% of it will be rezoned. Roughly, about 49 acres are to be rezoned to the new MUT-MU subarea, and about 11 acres are to be rezoned to the MUT-MUC subarea. Of the approximate total 60 acres of CG zoned land to be rezoned, there are about 51 acres of developed CG land to be rezoned to MUT, about 1 acre of underdeveloped land with an approved project to be rezoned to MUT, and about 8 acres of underdeveloped CG land to be rezoned to MUT.

For reasons that should become clearer after reading this document and my 3/30/15 response to your comments on issues regarding the Plan, and regardless of the rough estimates used, the existing MUE development restrictions should remain in place until a full traffic engineering study (without conflict of interests) of the Triangle portal traffic capacity has been completed that will aid in adjusting the restrictions. Restrictions should be based upon the existing road conditions, not planned and hoped for changes that: are not completely approved by all agencies that may be involved; have not secured needed ROW; and are unfunded.

Table 1 below refers to key components of the Triangle Strategic Plan Option 2 and presents an overall perspective of the total Triangle acreage zones and subareas with development density restrictions.

Table 1. Key Triangle Changes to Zones and Development Density Restrictions for CG, MUE, and MUT Subareas^{1,2}

	CG Commercial General	MUE Mixed Use Employment	MUT Subareas			
			MUT-MUC Mixed Use Core	MUT-MU Mixed Use Residential	MUT-CR Core Residential	MUT-CS Campus
Acres Before Rezoning (48 underdev.)	175 ac. (28 underdeveloped)	200 ac. (20 underdeveloped)	0	0	0	0
Acres After Rezoning (48 underdev.)	115 ac. (19 underdeveloped ³)	0	76 acres (8 underdeveloped)	105 acres (18 underdeveloped)	37 acres (3 underdeveloped)	42 acres (0 underdeveloped)
CG Acres Rezoned	60 ac. (9 underdeveloped)		11 acres (0 underdeveloped)	49 acres (9 underdeveloped)		
MUE Acres Rezoned		200 ac. (20 underdeveloped)	65 acres (8 underdeveloped)	56 acres (9 underdeveloped)	37 acres (3 underdeveloped)	42 acres (0 underdeveloped)
Max dwelling units per acre	25% of Total Gross Floor Area	25 du	No Maximum	50 du	30 du	No Maximum
Building Height	45'	45'	75'	55'	55'	75'
FAR	None	0.4:1	None	None	None	None

- (1) All zone areas are approximations based upon aerial maps and the Triangle Strategic Plan zone maps (street ROW and wetlands are included in most estimates).
- (2) All underdeveloped acres are estimates (based on aerial maps, the Triangle Strategic Plan zone maps, and onsite visual inspection) that included only vacant or mostly vacant land. Not included in the underdeveloped acreage estimates that would otherwise include over 25 acres more: small lots with occupied structures that are expected to be consolidated and the large parking lot areas that are expected to be replaced with parking structures to create additional buildable areas.
- (3) Over 10 acres of the 19 acres of underdeveloped CG zoned land after rezoning is subject to wetland and water restrictions.

Important concerns clearly still exist regarding the December 2014, Draft Tigard Triangle Strategic Plan; concerns that are the result of several very significant suppositions and presumptions that are currently doubtful, problematic, and/or without settled opinion as exemplified by our exchange of comments in the attachment and in this e-mail.

Chapter 4 of the Draft Triangle Strategic Plan creates more questions than it provides answers. For analysis purposes seemingly to justify removing the existing FAR, the chapter appears to show the FAR ratios that can be accommodated **after the improvements and zone changes are made**. Essentially, for such set of circumstances, it shows a FAR ratio of 1:1 in the MUT-MU subarea and 1.5:1 in the MUT-MUC subarea and assumes there will be no office use in the MUT-MU, and 20% office use in the MUT-MUC. Residential was increased in the existing MUE from 25du/acre to 30du/acre in MUT-CR, to 50du/acre in MUT-MU, and is unlimited in MUT-MUC and MUT-CS.

It should be noted that there appears to be more than one name used in the Plan and code to describe the subareas of MUT, so it is important to refer to the development density represented by each subarea name.

The Plan's recommended immediate increases in development densities raises the following questions:

1. Since the increased MUE development density apparently depends upon the existence of a new bridge at Beveland and 74th, does this imply the analysis is reliant upon HCT since the future bridge is largely dependent upon HCT?
2. If portal traffic capacity to the Triangle is not increased as presumed by future improvements, what FAR is supportable in the MUE or MUT (if MUE is converted) zone?
3. If portal traffic capacity to the Triangle is not increased as presumed it will be, what residential is supportable in the MUE or MUT zone?
4. What FAR is supportable in the MUE or MUT zone with office use at 100% rather than 0% or 20%?
5. What FAR and residential density is supportable if none of the approximately 8 acres of primary undeveloped CG property without an approved project is rezoned to MUE or MUT?
6. What FAR and residential density is supportable if none of the approximately 60 acres of CG property is rezoned to MUE or MUT?
7. When does the Plan expect the approximate 52 acres of developed CG property to have a different effect on traffic than it already has?
8. Why does the Plan rezone to MUT approximately 8 acres of the only centrally located contiguous undeveloped CG property in the Triangle that is also adjacent to CG zoned land and bordered by the two main roads in the Triangle?
9. If about 34 acres of developed CG zoned land consisting of Winco, Babies R'US, Office Max, and the cinema are to be rezoned to MUT, then why isn't Costco, Wal-Mart, the office building at the west end of Beveland, and Lowes also rezoned?
10. Should any CG zoned land be rezoned to MUT since it appears that either all CG zoned land should be rezoned or none at all?
11. Why are 9 acres consisting of four small isolated areas of undeveloped CG zoned land adjacent to the MUT zone not included in the MUT zone even if it is used as open space?
12. Why isn't about 10 acres of CG zoned land which is largely wetland south of Costco included in the MUT zone even if it is used as open space?
13. Since the Triangle Strategic Plan assumes a very low percentage of office use, should a FAR be implemented that reflects the low percentage use scenario to assure all property can develop?
14. Does the Plan expect the WinCo development to redevelop within the 20 years the Plan is supposed to focus on, or does it contemplate its redevelopment in a more realistic 60 years?
15. How much of the additional traffic into the Triangle from the presumed future bridge at Beveland is expected to pass through the Triangle and consequently offset the overall portal capacity increase it is presumed to provide?
16. Shouldn't the Fields property plans be factored into the traffic analysis?
17. Is it considered fair financially or otherwise, to vary development density limiting restrictions between subareas of the MUT zone that are essentially within a few hundred feet of each other?
18. Where can the detailed traffic study with its assumptions be accessed?
19. How much traffic from development outside the Triangle such as from the Fields property along Hunziker, and the general area south of the Triangle including development along Bonita, is expected to use up the Triangle portal capacity?

20. Should only Triangle land be subject to the FAR and dwelling unit restriction even though development outside the Triangle will also contribute traffic that uses up limited Triangle portal capacity?

Without the results of a traffic engineering study that has independently analyzed the portal capacity of the Triangle to help answer the above basic questions and others, the Triangle FAR and residential restrictions should remain unchanged.

Property that is not among the first to obtain development permits can expect to be left unable to develop at all because of its inability to meet minimum traffic study standards—the potential inability to develop exposes property unnecessarily to damages arising from the FAR removal and increased development density.

Unless the portal capacity has been physically increased by the hoped for road improvements assumed by the Plan, and/or office use throughout MUE or MUT area is extremely restricted, the existing FAR and residential restrictions should not be changed. The Triangle Strategic Plan does not appear to effectively address the capacity problem at the portals that are expected to grow worse soon after the FAR is eliminated and residential density is increased.

There are approximately 8 undeveloped acres of centrally located CG property in the Triangle that will be affected by the proposed zone conversion to MUE or MUT, whereas most of the approximately 52 acres of developed (including 1 acre of soon to be developed property) CG property converted to MUE or MUT may not redevelop for many decades and will probably want to remain as CG zoned property. The 8 undeveloped acres of CG zoned property represents about 13% of the CG property to be rezoned. Until the 52 acres of CG property redevelops, the rezoning is unlikely to have much effect on traffic within the Triangle. To my knowledge WinCo is not intending to close its store, or change any of its shopping area into residential during the next half century.

Traffic capacity at the portals is not increased by attempting to manage development and its associated traffic by changing zoning designations and increasing allowed residential densities. It is doubtful whether eliminating the FAR approach will effectively ensure that development capacity of the Triangle is spread fairly throughout the MUE or MUT zone.

The Plan proposes to remove FAR restrictions and increase residential density based on studies that show the established restrictions will not be needed. It appears that the Plan recommendations overlook the requirement that projects show an acceptable level of service at the portals. Since the remaining traffic capacity of the Triangle portals is limited, an immediate consequence of this is the retail, office, or residential per acre that can be developed in the Triangle is also limited. What happens when traffic studies no longer can show an acceptable level of service at the portals? Will traffic studies no longer be required to show an acceptable level of service at the portals?

It appears that the Triangle Strategic Plan indirectly proposes that all remaining development capacity in the Triangle be based upon a first come, first served approach. After the remaining traffic capacity of the portals has been used up more rapidly by the removal of the FAR, will all future development be halted until the portal traffic capacity is increased?

It is clear the Triangle is enclosed by I-5, Hwy 217, and Pacific Hwy, however, what is not clear is that there is a limited number of portals to the Triangle that provide ingress and/or egress. The effect of this restriction is profound due to the requirement that projects in the Triangle are required to show an acceptable level of service is maintained at the portals to the Triangle. Merely showing that traffic in the immediate vicinity of a project is acceptable is not enough.

Some of the main issues, concerns, and suggestions from my 3/30/15 response regarding the December 2014, Draft Tigard Triangle Strategic Plan are:

- The Plan is likely to have unfair consequences unless various issues are addressed before its implementation due to proposed changes that are based upon suppositions unlikely to occur for at least another decade or two, if ever.
- To minimize the effect of downzoning property converted from CG to MUE or MUT, such downzoned property should retain their exclusion from GLA limitations, Pad sizes, and existing or future FAR restrictions that may be imposed.
- What will happen when future development projects cannot generate traffic studies that show an acceptable level of service at the Triangle portals. Will they need to wait until portal capacity is increased at an unknown time in the future? Since the cost to increase portal capacity cannot be expected to be financed by a single project as with Wal-Mart, what will be the alternative?
- A corollary to the above concern is related to Triangle development capacity that is limited by the portal traffic capacity. The potential to concentrate the limited remaining development capacity of the Triangle into a few properties is an undesired by-product of the current Plan. There does not appear to be a workable mechanism within the Triangle Strategic Plan that prevents a few MUE properties from using up all the portal traffic capacity of the Triangle. Currently, development capacity is limited and distributed throughout the MUE area by the use of a Floor Area Ratio of 0.4:1 and the R-25 designation (medium high-density residential district).
- After the portal capacity is used up, the Triangle MUT or MUE area is likely to face another imposed FAR or no longer be allowed to develop until High Capacity Transit, the new bridge at Beveland, and the removal of the Winco building to make way for 74th, can be guaranteed to occur on a timely basis. Without a traffic analysis update of all portal capacity in the Triangle that also examines how much office, retail, and residential (of varying du/acre) is possible per acre within the Triangle, it is not possible to know when new development restrictions might be imposed and they are likely to be far worse than a FAR of 0.4:1 especially if the existing restrictions have been temporarily removed.
- The possibility of unfair consequences that arise from allowing development to occur without any FAR and residential restriction makes it essential to know beforehand the results of a portal capacity based traffic study for the Triangle. Until such a study is completed that also specifies the amount of development capacity that is possible, the Triangle Strategic Plan should retain the existing development restrictions. Of course restrictions can be later adapted to the results

of the portal capacity traffic study which should also analyze possible new Triangle portals and improvements to those that already exist.

Due to the importance of updating the last traffic study that examined the overall Triangle portal capacities we contacted a locally based highly respected traffic engineering firm with extensive experience in the Triangle to explore the cost of an update funded by us to aid in the decision facing Triangle property owners as to whether the FAR and residential density restrictions should be altered. All Triangle property owners would benefit from the results of the study since there would no longer be any ambiguity as to how much retail, office, or residential is possible in the Triangle. However, the firm, of which we are a client, and which completed the last known inclusive Triangle portal capacity study that we can find to be available, informed us it could not perform such a study due to a conflict of interest the firm felt it may have within the Triangle. Apparently there are serious complications with regards to the Triangle portals.

Despite its importance to the Triangle, due to conflicts of interest seemingly related to portal deficiencies, it may be difficult for the City to find an appropriate traffic engineering firm to study the Triangle portal capacity and potential portal improvements that has no conflict of interest.

It should be obvious to anyone objectively considering the numerous subject areas addressed by this email and its attachment, that the proposed Plan should be put on hold, and/or an interim plan be created that retains the existing development restrictions and zoning until traffic capacity at the portals has been fully studied with various build-out scenarios and new portals considered wherever possible. After such a study, physical portal capacity improvements that have been funded can be used to make appropriate changes to the development density.

Before the Draft Triangle Strategic Plan is implemented, there are many major issues to resolve. Triangle traffic portal capacity is not resolved by the Plan. The Plan does not take into account what will occur during the transition from existing conditions to the hoped for future conditions. The interim or transition period could last for many decades due to uncertain suppositions and the extremely long term view taken by the Plan. **The Plan is clearly based upon uncertain to occur events long in the future as the basis for major immediate changes in development densities. Meanwhile, upon the expected resurrection of a much more restrictive FAR on development after the portal capacity is used up, the Triangle will again be further limited in its development. That is, if future events do not occur as it is prematurely presumed they will, the Plan amplifies unwanted and unfair results perhaps indefinitely.**

Development density restrictions such as the FAR and R-25 residential should not be altered until it is shown by an objective traffic capacity study that does not favor any particular position, that there is enough portal capacity in the Triangle to support the change for all MUE and/or MUT Triangle property throughout the entire interim from build-out as it exists today up until full build-out conditions. Option 2 of the Plan proposes that the 0.4:1 FAR be removed from about 200 acres of MUE as well as an increase in the number of dwelling units per acre. This not only provides a greater possibility of redevelopment than under current zoning due to economic feasibility considerations, it would allow much more development than under the present zoning and development restrictions provided traffic portal capacity is not reached—the problem is portal capacity is unknown and it will likely be used up long before the full build-out assumptions of the Plan are reached.

If the proposed development density restrictions are implemented as intended in Option 2, out of 200 acres, a few acres of high density office has the potential to quickly use up all the portal capacity and cause significant damage to the rest of the Triangle if the presumed improvements that affect portal capacity do not occur.

Sincerely,

Steve Martin
Triangle CAC member
Triangle resident
Landowner representative

Adding Multi-family dwelling units to Commercial General Zone Effectively Eliminates Marketability of Adjacent Land as intended for a Commercial General Zone

Tax lot 300 Adding Multi-family dwelling units to tax lot 300 effectively eliminates the ability of tax lot 401 to attract major retailers onto its site. The proposed zone change allows Multi-family dwelling units to be inserted between Dartmouth Street and tax lot 401. If Base Camp has a binding commitment from Compass Oncology (not just a letter of intent), then adding the option to have Multi-family dwelling units on TL300 is less of a concern, but remains a concern until Compass Oncology is on the site as proposed.

Tax lots 400 and 402. Adding Multi-family dwelling units on these tax lots effectively eliminates the ability of tax lot 401 to attract major retailers onto its site. The proposed zone change allows Multi-family dwelling units to be inserted between 72nd Avenue and tax lot 401. Also, the connection to 72nd for these two tax lots and TL401 remains unresolved and this adds more complexity to an already difficult problem. The City stated in the Pre-App for TL401 that only one commercial connection to 72nd will be allowed in the vicinity and that TL401 must connect to a future connection with 72nd across from Elmhurst Street.

Possible Solution to Eliminate Unwanted Adverse Impacts from Proposed Zone Change

The proposed zone change use to allow multi-family dwelling units in a commercial general zone can be excluded from the 8 acres shown in shaded red on Page 1 of the attached drawings (bounded by Dartmouth, 72nd, Wal-Mart, and Hermosa tax lots). This exception can be justified because of the unintended adverse impact it will have on at least one of the tax lots in the 8 acres (adverse impact arises as it is located behind the other tax lots); it is in the focal point of the Triangle; it directly abuts and is adjacent to a major retail site; and was part of the Dartmouth Street LID. This solution does not prevent agreed to changes in the future, but will eliminate the unintended adverse impact on property that is directly caused by adding Multi-family dwelling units to a commercial general zone.

In general, adding a major new use to an established zone designation has the potential for unintended adverse impacts on commercial general zoned property whether it is developed or not. Each property subject to a zone change use has unique characteristics and impacts on neighboring property. The blanket commercial general zone use change is perhaps better replaced by a tool that allows such a change after impacts to neighboring property have been either accepted by the neighboring properties or is determined to have no adverse impacts on the neighboring property.



Larger Major Chain retailers want to be grouped together and seen. The last of the available CG zoned land suitable for major retailers in the Triangle (if not the Tualatin, Tigard, and Beaverton area) is the 8 acre site shown in red shade.

Adding Multi-family dwelling Units to CG can significantly affect the ability of some tax lots to reach their highest and best use. Understanding retail site synergy and view corridors are essential. In this instance, Multi-family significantly and adversely affects the ability to attract other major retailers onto the adjacent site as shown.



Multi-family on adjacent land disconnects this tax lot from the overall larger Major retail store site. Site synergy and atmosphere is broken if Multi-family is inserted between Dartmouth Street and this tax lot. This tax lot effectively loses its ability to attract major retailers. **Uses are Limited by adding the Multi-family option to CG.**

Adding Multi-family dwelling Units to CG can significantly affect the ability of some tax lots to reach their highest and best use. Understanding retail site synergy and view corridors are essential. In this instance, Multi-family does not significantly affect the ability to attract major retailers on the adjacent sites. However, retail instead of Multi-family would benefit the overall synergy of the site.



Major retail, small retail, office, Multi-Family remain attractive. connectivity of major retail synergy and atmosphere not broken. Does not Limit Site ability to attract major retailers. **Uses have NOT been limited.**

Retail, Office, Multi-Family Use **NOT** Limited

IF Multi-family

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FOR AFFORDABLE HOUSING, INC.



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October 27, 2016

City of Tigard
13125 SW Hall Blvd.,
Tigard, Oregon 97223

RE: Letter of Strong Support for Omnibus Code Amendment Package DCA 2016-0003

Dear Mayor John L. Cook
Council President Jason Snider
Councilor John Goodhouse
Councilor Marland Henderson
Councilor Marc Woodard

I am writing on behalf of Community Partners for Affordable Housing (CPAH) in support of the proposed legislative amendment to the Tigard Development Code. In particular, CPAH is supportive of the proposal to amend Chapter 18.620 Tigard Triangle Plan District and Chapter 18.520 Commercial Zoning Districts to allow multi-family dwelling units within the General Commercial (C-G) zone in the Tigard Triangle Plan District. This amendment will certainly make it possible to develop a range of housing there, including affordable housing.

We agree with staff that this change will greatly support the larger dynamic vision for the Tigard Triangle – a healthy and walkable community where people live and work. CPAH is excited to be part of this community and to work as a partner in growing local opportunities. We know that a necessary ingredient of any vibrant community is housing for people at all income ranges.

At this time our region has a historic need for affordable housing. Homelessness is increasing and many residents are being displaced by higher rents. Recently, Tigard experienced this at the Walnut Tree Apartments, where all residents received termination notices as the rents doubled. The unexpected need to move is always disruptive to families and kids in school. Additionally, with the current tight rental market there is not always another apartment, especially an affordable apartment, available. This is an opportunity to create an environment where affordable housing is achievable.

CPAH has had the benefit of being a partner with the City of Tigard for many years. We are grateful for the City's historic commitment to our organization through tax abatements and system development charge waivers. Building affordable housing requires this kind of public and private partnership. As a member of the Technical Advisory Committee for the Tigard Triangle Urban Renewal Plan, staff at CPAH understand that there has been a great deal of effort and careful thought connected to the desired community in the Tigard Triangle and the land use design and partnerships needed to make that happen.

Finally, we have noticed that there may be some concern that affordable housing is not a good companion to other land uses. We emphatically believe that affordable housing belongs where there is access to opportunity, which includes transit, employment in both small and large

CPAH does not discriminate against any person on the basis of age, race, color, religion, sex, sexual orientation or gender identity, disability (physical, mental or developmental), familial or marital status, or national origin, in admission or access to, or treatment of, residents, employees or volunteers in any of its projects or programs.



businesses, and education. The Tigard Triangle is the perfect place for multifamily affordable housing. We are looking forward to building another housing community in the Triangle at 11090 SW 68th Parkway.

We are excited about the changes coming to the Tigard Triangle as well as our continuing partnership with the City of Tigard.

Thank you for your service.

Sincerely,

A handwritten signature in cursive script that reads "Rachael Duke".

Rachael Duke
Executive Director
Community Partners for Affordable Housing

CPAH does not discriminate against any person on the basis of age, race, color, religion, sex, sexual orientation or gender identity, disability (physical, mental or developmental), familial or marital status, or national origin, in admission or access to, or treatment of, residents, employees or volunteers in any of its projects or programs.



Kelly Burgoyne

From: Agnes Kowacz
Sent: Friday, October 28, 2016 8:37 AM
To: Carol Krager; Kelly Burgoyne
Subject: FW: Letter of strong support for Omnibus Code Package DCA 2016-0003
Attachments: Letter of Support to Tigard City Council Nov 1.pdf

Hi Ladies-

I received these two letter regarding my omnibus code amendment that is addressed to Council. Do we provide these ahead of time or at the meeting? Thanks,
Agnes

From: Daniel A Edwards, humble architect [mailto:dane1952@frontier.com]
Sent: Thursday, October 27, 2016 12:45 PM
To: Agnes Kowacz
Subject: Letter of strong support for Omnibus Code Package DCA 2016-0003

Mayor John L. Cook
Councilor John Goodhouse
Councilor Marian's Henderson
Councilor Marc Woodard

I am writing on behalf of Community Partners for Affordable Housing (CPAH) in support of the proposed legislative amendment to the Tigard Development Code. I am most supportive of the proposal to amend Chapter 18.620 Tigard Triangle Plan District and Chapter 18.520 Commercial Zoning Districts to allow multi-family dwelling units within the General Commercial (C-G) zone in the Tigard Triangle Plan District. This amendment will certainly make it possible to develop a range of housing there, including affordable housing.

Thank you for your time on this important issue.
Dan

[Sent from Yahoo Mail for iPhone](#)

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AIS-2814

6.

Business Meeting

Meeting Date: 11/01/2016

Length (in minutes): 30 Minutes

Agenda Title: Present Policy and Implementation Relating to Transient Lodging Tax

Prepared For: Toby LaFrance, Finance and Information Services

Submitted By: Kelly Burgoyne, Central Services

Item Type: Update, Discussion, Direct Staff

Meeting Type: Council
Business
Meeting -
Main

Public Hearing: No

Publication Date:

Information

ISSUE

A discussion of the issues and steps related to implementation of a proposed local Transient Lodging Tax in Tigard.

STAFF RECOMMENDATION / ACTION REQUEST

Staff requests direction on next steps regarding implementation of a proposed local transient lodging tax.

KEY FACTS AND INFORMATION SUMMARY

During the Budget Committee deliberations for the FY 2016-17 budget, the committee discussed a local transient lodging tax. The tax would be a General Fund revenue that could be used to support \$40,000 for the Tigard Downtown Alliance in the FY 2016-17 Budget.

Attached to this Agenda Item Summary are the following documents:

1. A presentation on TLT that was made at the LOC conference. The presentation covers local and state issues on TLT. This presentation provides excellent background on laws and issues related to TLT implementation and uses.
2. Draft Ordinance that Council could use at a future date to implement the TLT
3. Draft Tigard Municipal Code that Council could pass via the Ordinance to establish the TLT
4. List of the 88 Oregon Cities that currently have a TLT, sorted by the rate set by the cities. The lowest city rate in the state is 3%, the highest is 12% and the average is 7.5%.

Some key points for Council discussion include:

1. How much of a **tax to levy**. The attached document shows the current range of tax

rates. Beaverton just implemented a 4% TLT. For each 1% levied in Tigard, there will be \$230,000 to \$260,000 in revenue.

2. **Collection** by Washington County via an IGA. The attached ordinance permits both collection by the city or by an IGA. Washington County already collects the county TLT and is willing to collect Tigard's TLT. Washington County currently collects quarterly. They have been provided with the draft TMC to discover if there are areas of the code that would create administrative difficulties. Beaverton has an IGA with Washington County to collect their local TLT.
3. The state allows a 5% **collection fee** to be retained by the lodging provider. Council could allow a larger percentage. This is in section 3.85.150 of the proposed TMC.
4. Cities can require **registration**. This is covered in section 3.85.070 of the proposed TMC, requiring registration and a "Certificate of Authority" that would be posted similar to a business license or alarm permit.
5. **Penalties** for non-compliance are set in section 3.85.090.
6. Section 3.85.140 of the proposed TMC sets the **use of the TLT funds** as "general funds of the City and may be used in any lawful manner, as prescribed by state law." Under current state law, at least 70% of TLT collected needs to go to tourism promotion or tourism related facilities. Some examples in Tigard include, Tigard Downtown Alliance support, support of the Chamber of Commerce, activities of the Economic Development Division, and construction of the Tigard Heritage Trail. The remaining 30% can be used for general governmental activities.

Staff will provide an update on initial **community outreach** efforts and seek guidance on next steps at the meeting.

OTHER ALTERNATIVES

Council could determine to forgo a transient lodging tax and find an alternate funding source for the Tigard Downtown Alliance.

COUNCIL GOALS, POLICIES, APPROVED MASTER PLANS

Provide recreation opportunities for people of Tigard.

Make Downtown Tigard a place where people want to be.

DATES OF PREVIOUS COUNCIL CONSIDERATION

Budget Committee Meetings in April and May 2016.

Attachments

LOC Presentation

Draft Ordinance

Draft TMC 3.85

LOC list of Cities with TLT



State and Local Lodging Taxes

- Facilitator:** ● Bob Andrews, Mayor, Newberg
- Panelists:** ● Nancy Brewer, Finance Director, Corvallis
● Wendy Johnson, Intergovernmental Relations Associate, LOC
● Eric King, City Manager, Bend and/or
Kevney Dugan, Executive Director, Visit Bend
● Scott West, Chief Strategy Officer, Travel Oregon



Local Lodging Tax...Basic Facts (1)

- Lodging taxes are a [local option](#).
- 2015 report counted [85](#) of the 242 cities and [15](#) of the 36 counties with a local lodging tax.
- Tax must be computed on the [total retail price](#).
- Tax generally is a [percentage of lodging charges](#) incurred by the customer. (Some may do a flat fee.)
- [Tax rates vary](#) as they are set by individual jurisdictions. Tax rate ranges are 2% to 13.5%. (Most are 6-9%.)



Local Lodging Tax...Basic Facts (2)

- Subject to tax: Facilities that are taxed [vary by jurisdiction](#) but most seem to apply state definitions and exemptions. (Exemption of private rental houses seems most common.)
- Timing: Collection schedule requirements are set by local jurisdiction-some are [quarterly and some are monthly](#).
- Where to file: With each taxing jurisdiction. However, some counties and cities have agreements to collect for each other or share revenues. [Working to allow IGA for DOR collection of local tax.](#)
- Registration: [Varies by jurisdiction](#) as local government sets own registration and/or licensing requirements for lodging providers and collectors of tax.



State Regulation of Local Lodging Tax (1)

- Collector reimbursement charges:

Since Jan. 1, 2001:

Any reimbursement deduction given to a lodging tax filer must be maintained

AND

If increase tax, must allow a lodging tax collector [at least a 5% deduction](#) from taxes



State Regulation of Local Lodging Tax (2)

Use of local transient lodging tax revenues:

May not decrease percentage of total TLT revenues that were actually expended or agreed to be expended to fund “tourism promotion” or “tourism-related facilities” as of July 2, 2003.

(Thus, this percentage varies from city to city as percentage is frozen at 2003 rate.)



- Exception: if local government financing debt with TLT revenues on Nov. 26, 2003, must continue to finance debt until retirement of debt.



State Regulation of Local Lodging Tax (3)

And, if local government increases lodging tax or imposes a new tax:

- 70% of net revenue from the new or increased tax shall be used for: “**tourism promotion**” or “**tourism-related facilities**” or finance/refinance debt of “tourism-related facilities”
- No more than 30% may used to fund **city or county services**

(Thus, total percentage of local tax revenues that are restricted to tourism is highly variable around the state. Add two numbers.)



4 Key Definitions: (ORS 320.300):

#1

(7) “**Tourism promotion** ” means any of the following activities:

- (a) Advertising, publicizing or distributing information for the purpose of attracting and welcoming **tourists**;
- (b) Conducting strategic planning and research necessary to stimulate future **tourism** development;
- (c) Operating **tourism promotion agencies**; and
- (d) Marketing special events and festivals designed to attract **tourists**.

*But note, with HB 4146, the state has moved away from “state marketing tourism program” use of state lodging tax dollars to “state tourism program.”



4 Key Definitions: (ORS 320.300)

#2

(9) “**Tourism-related facility** ” means:

- (a) A **conference center, convention center** or **visitor information center**; and
- (b) Other improved real property that has a useful life of 10 or more years and has a substantial purpose of supporting **tourism** or accommodating **tourist** activities.

- Subsection (b) is the catch-all permitted use of revenues in the 70% category. It was intended to provide some flexibility. Still, it isn’t as flexible as cities would like.
- It has 3 components to qualify: 1) **real property**; 2) **useful life of 10 or more years**; and 3) **substantial purpose of supporting tourism or accommodating tourist activities**.



4 Key Definitions: (ORS 320.300)

#3 & 4

(6) **“Tourism” means** economic activity resulting from tourists.

(10) **“Tourist” means** a person who, for business, pleasure, recreation or participation in events related to the arts, heritage or culture, travels from the community in which that person is a resident to a different community that is separate, distinct from and unrelated to the person’s community of residence, and that trip:

- (a) Requires the person to travel more than 50 miles from the community of residence; or
- (b) Includes an overnight stay.



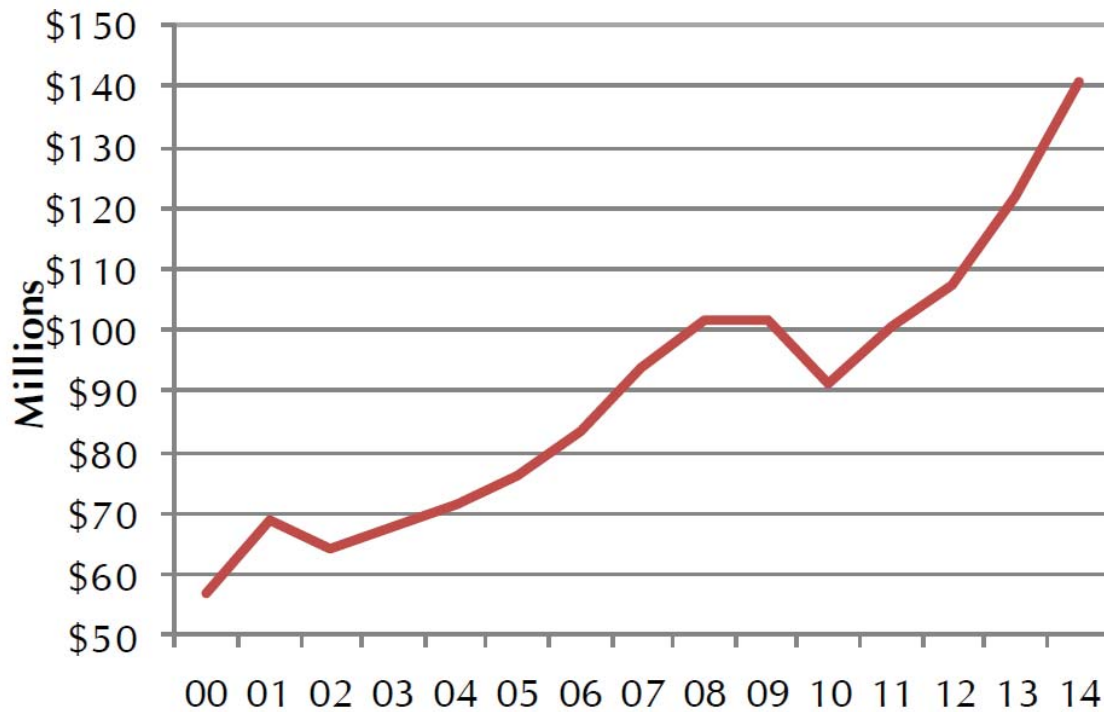
Local Lodging Tax Revenues



- In FY 2014, local lodging tax revenue totals were approximately **\$136 million**—cities brought in just over **\$87 million**
- Local lodging tax receipts continue to increase around the state. Total receipts increased by 15.2% from FY 2013 to FY 2014.

Oregon Local Lodging Tax Receipts

Fiscal Year ending June 30



Excerpt
source:
Oregon Travel
Impacts 1991-
2014, Dean
Runyan
Report, issued
April 2015,
prepared for
Oregon
Tourism
Commission,
page 213

Example of Local Lodging Tax
Revenues in three counties
from 2004 to 2013:

Local Lodging Tax Receipts by Jurisdiction

Fiscal Year ending June 30

Amounts in \$000

	Current Rate	2004	2005	2006	2007	2008	2009	2010	2011	2012	2013
DESCHUTES COUNTY											
Bend	10.0%	2,502	2,799	3,107	3,303	3,427	2,938	2,960	3,280	3,524	3,888
Redmond	9.0%	388	406	463	493	509	436	458	504	503	533
Sisters	8.0%	146	184	213	224	267	280	275	288	308	331
Unincorporated	7.0%	3,017	3,056	3,231	3,304	3,511	3,270	2,960	3,139	3,258	3,691
LINCOLN COUNTY											
Depoe Bay	8.0%	348	390	441	403	401	378	457	453	473	505
Lincoln City	9.5%	2,796	3,138	3,083	3,438	3,704	4,417	4,352	4,260	4,234	4,514
Newport	9.5%	1,716	1,866	2,113	2,272	2,357	2,228	2,256	2,291	2,323	2,408
Waldport	7.0%	23	22	23	23	23	23	23	23	30	34
Yachats	7.0%	394	418	442	503	520	496	477	429	451	481
Unincorporated	9.0%	874	968	1,078	1,119	1,389	1,599	1,556	1,673	1,696	1,801

Local Lodging Tax Receipts by Jurisdiction

Fiscal Year ending June 30

Amounts in \$000

	Current Rate	2004	2005	2006	2007	2008	2009	2010	2011	2012	2013	2014
MULTNOMAH COUNTY												
Fairview	6.0%	51	40	39	39	43	38	37	38	39	45	49
Gresham	6.0%	427	442	469	556	616	563	455	460	495	605	664
Portland	8.0% *	13,325	14,170	15,964	17,527	19,647	23,572	16,512	19,143	21,359	28,747	35,063
Troutdale	6.95%	290	313	356	341	375	414	403	429	428	452	481
Wood Village	6.0%	68	84	84	98	105	100	85	89	97	105	110
County-Wide	5.5%	12,352	13,467	14,794	16,726	18,491	16,115	15,441	18,208	20,052	21,464	27,435

[Excerpt source:](#) Oregon Travel Impacts 1991-2014, Dean Runyan Report, issued April 2015, prepared for Oregon Tourism Commission (See pages 214-218 for county/city details)

Can find full report on League's A-Z Index under "Lodging Tax"



League Legislative Priority

A lodging tax bill, the outcome of which, would:

- Provide jurisdictions [greater flexibility to spend local lodging tax revenue](#) to plan for and provide services and infrastructure related to tourism;
- [Reduce or eliminate the required reimbursement charge](#) that a lodging tax collector is allowed to retain for filing a local lodging tax return; and
- Improve [efficiency and collection of local lodging taxes](#) in cooperation with the state.



State Lodging Tax...Basic Facts

- 1% state lodging tax first imposed with passage of HB 2267 (2003). Bill became effective October 7, 2003 under Gov. Ted Kulongoski administration.
- July 1, 2016: .8% state tax increase for 4 years, then will be lowered to a .5% increase (starting July 1, 2020) **HB 4146 (2016)**
- State tax revenues fund **Oregon Tourism Commission** which does business as **Travel Oregon**, the state's tourism agency.



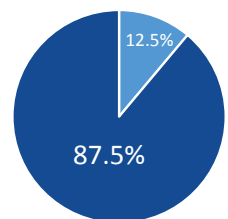
State Lodging Tax Revenues

(1)



- 1% tax raises approximately \$17 million per year (2016 estimate)
- At least 65% of state taxes must be used to fund state tourism programs (marketing restriction deleted in 2016)
- 10% must be used for matching grants, which may include tourism-related facilities and tourism-generating events, including sporting events

Estimated Yearly Lodging Tax Revenues



■ State Lodging Tax Revenues- \$17 million
■ Local Lodging Tax Revenues- \$136 million



State Lodging Tax Revenues (2)



- 20% of state revenues must be used to fund a regional cooperative tourism program (RCMP) (HB 4146)
- A regional allocation formula distributes revenues to 7 regions, the boundaries of which are established by the Oregon Tourism Commission, in proportion to the amount of TLT revenues collected in each region.



State Lodging Tax Revenues (3)



Table 1.1 - Annual Lodging Tax Receipts by Accommodation Type (dollars)

Calendar Year	Bed & Breakfast	Campgrounds & RV Sites	Hotel	Motel	Vacation Home	Other ¹	Multiple ²	Total
2004	163,824	259,588	4,316,833	2,802,290	244,019	146,085	423,398	8,356,036
2005	169,607	270,232	4,726,334	3,045,934	264,378	139,191	469,270	9,084,945
2006	190,514	339,997	5,185,752	3,408,192	793,614	154,748	652,608	10,725,425
2007	211,492	354,801	5,720,747	3,662,718	899,895	131,452	715,497	11,696,601
2008	220,747	332,310	5,950,927	3,445,523	993,768	90,305	695,633	11,729,213
2009	194,143	338,320	5,274,978	3,088,432	958,620	64,603	612,985	10,532,082
2010	203,041	392,902	5,755,061	3,198,720	1,042,332	37,846	530,194	11,160,096
2011	203,072	365,802	6,240,259	3,270,698	1,124,581	19,209	576,278	11,799,900
2012	244,496	385,449	6,760,864	3,352,678	1,265,794	6,790	622,711	12,638,782
2013	248,852	440,311	7,438,364	3,578,844	1,265,522	17,971	662,344	13,652,207
2014	254,236	442,060	8,123,506	3,814,145	1,404,931	86,589	705,896	14,831,363



Room Tax Administration

- Communities need to consider whether their current room tax ordinance includes all classes of property being used as short-term rentals.
- Many don't currently include:
 - Vacation rental houses (VRBOs);
 - Any other dwelling unit, or portion of a dwelling unit, used for temporary overnight stays (< 30 days) (Airbnbs).
- Ensuring your local ordinance mirrors State law for the classes of property subject to the room tax should make collections easier.



Subject to State Lodging Tax:

- Hotels and motels;
- Bed and breakfast facilities;
- RV sites in RV parks or campgrounds;
- Resorts and inns;
- Lodges and guest ranches;
- Cabins;
- Condominiums;
- Short-term rental apartments and duplexes;
- Vacation rental houses;
- Tent sites and yurts in private and public campgrounds; and
- Any other dwelling unit, or portion of a dwelling unit, used for temporary overnight stays. (< 30 days)

Note: original 2003 definition was expanded in 2005 to include more than just hotels, motels and inns.



State Lodging Tax Exemptions:

Facilities:

- Health care facilities, including hospitals and long care facilities
- Drug/alcohol abuse treatment facilities
- Mental health treatment facilities
- Facilities that have < 30 days of rentals in a year
- Emergency temporary shelters funded by the government
- Nonprofit youth & church camps, conference centers and other qualifying nonprofit facilities

Persons:

- Lodgers who spend > 30 days at the same facilities
- Federal employees on federal business



Room Tax Administration

• Challenges to Collections in 2016:

- On-line resellers may not believe they should have to collect room taxes.

BUT: The operator that collects payment for the room tax from the customer is required to collect and remit the state tax. This includes all on-line travel companies (OTCs) or intermediaries.

- On-line resellers “buy” rooms at a wholesale rate; room tax is due on the retail cost.
- The variety of rates, due dates, collection mechanisms and forms make it considerably more difficult for OTC to meet local objectives, even if they want to.
- One named OTC may operate half a dozen or more websites and may be operating in all 85 cities and 15 counties.



Room Tax Administration

Challenges to Collections in 2016 (cont.):

- OTCs do not want to submit to 100 different community's remittance/audit processes/timelines.
- Too many OTCs to monitor for compliance.
- Some local land use regulations may not allow short-term (less than 30 consecutive days) rentals:
 - With or without a responsible party on-site?
 - In all residential zones?



Room Tax Administration

- A Bed and Breakfast is not the same thing as an Airbnb or VRBO. The B&B has a responsible party on-site; Airbnb varies and VRBO is usually without on-site owner presence.
- How to manage collecting room tax if the use is not allowed?
 - Change the land use regulations to allow the use?
 - Not allow the use and enforce the land use regulations?
 - Ignore the issue unless there is a complaint?



Room Tax Administration

- The roles of different players will be challenging:
 - Finance – wants to collect revenue, but entities collecting/remitting room taxes may believe that gives them license to operate (i.e., land use is OK).
 - Code Enforcement – wants entities to comply with land use actions.
 - Neighborhood – wants a quiet residential neighborhood, not lots of different people coming and going and causing nuisance.
 - Home owner – wants some income.
 - Visitors Center – wants increased income, but may have mixed messages on whether Airbnb/VRBO is acceptable.



Room Tax Administration

- Each community will have to decide how to address this issue based on the community's standards and desires.
- Even small communities without a hotel may have VRBO and/or Airbnb operations right now. Consider whether to develop a local room tax to collect revenue from these operations.
- Work with OTCs to improve collections and reporting data.
- VCA with Airbnb



More Info?

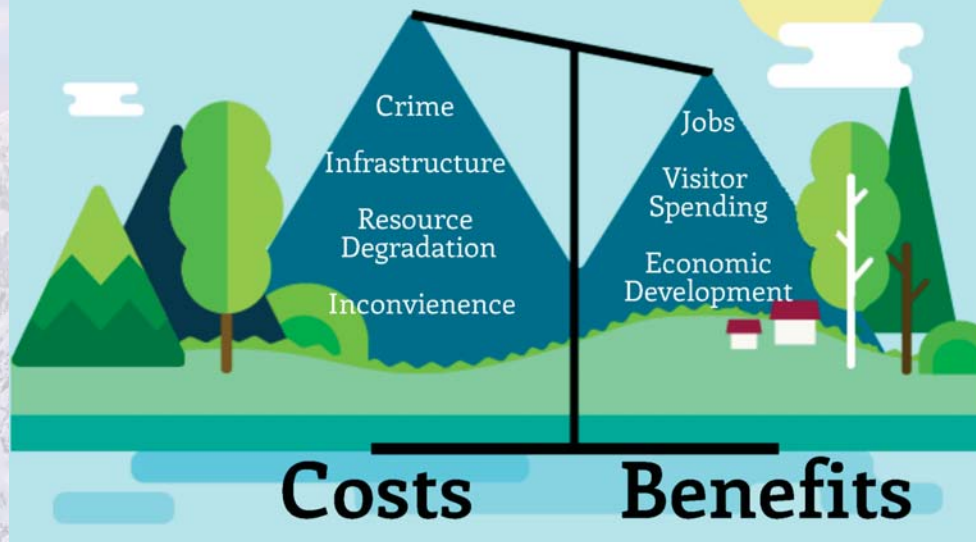
Nancy Brewer, City of Corvallis Finance Director, 541-766-6990 or
nancy.brewer@corvallisoregon.gov

TOURISM BY THE NUMBERS BEND, OR



CITY OF BEND

Is tourism worth it?



Do tourists pay their "fair share"?



Hotel Visitors

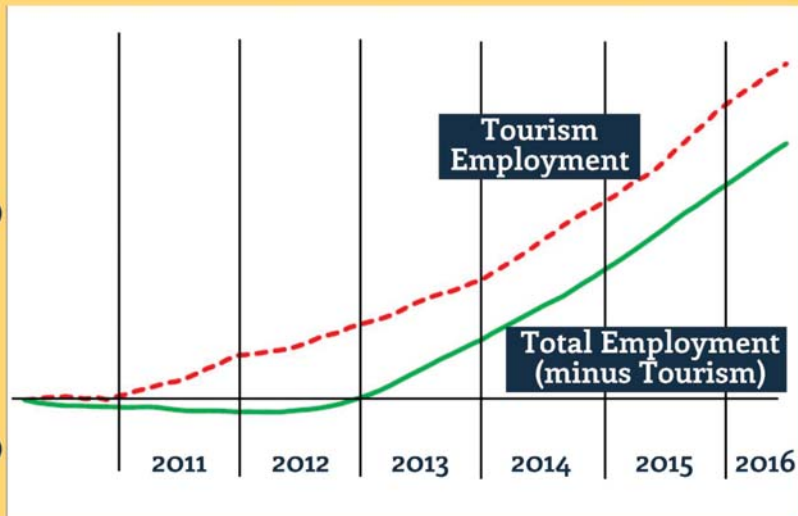
\$120 average hotel room
TRT ~\$12.50 a night



Households

Average House \$300k
~\$750 annually to City

Tourism jump-started Bend's recovery



Are we a tourism town?



Austin, TX



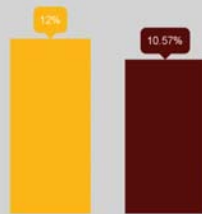
Jackson Hole

We are a lifestyle metro, which gives us a competitive advantage

"In most markets, work/life balance comes before career progression when evaluating job opportunities."

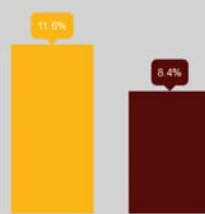
-Deloitte Survey on Millennials (2016)

Percent of Jobs in Tourism



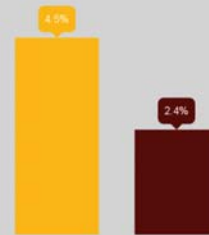
■ Lifestyle ■ Standard

Job Growth (Excluding Tourism)



■ Lifestyle ■ Standard

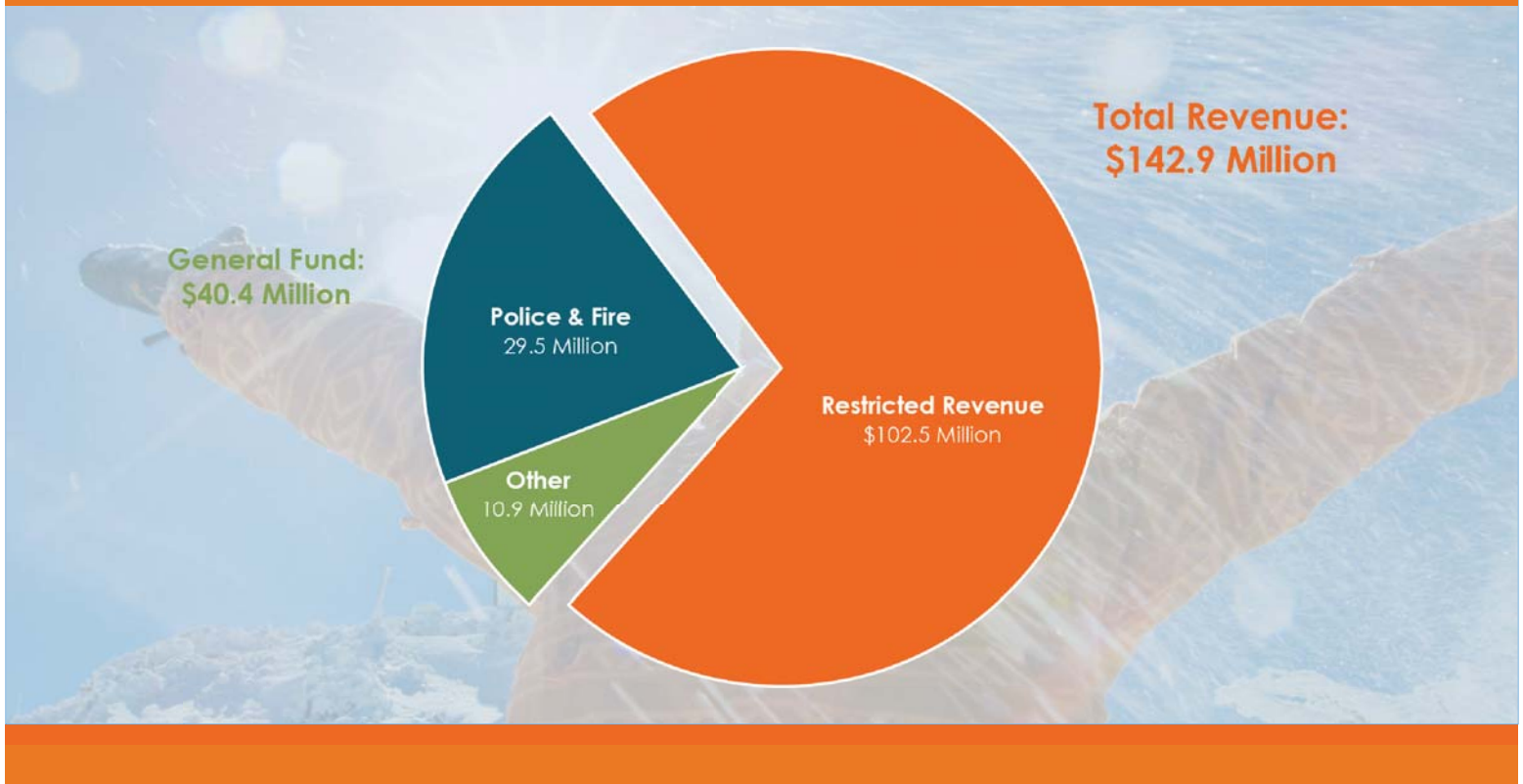
Labor Force Growth



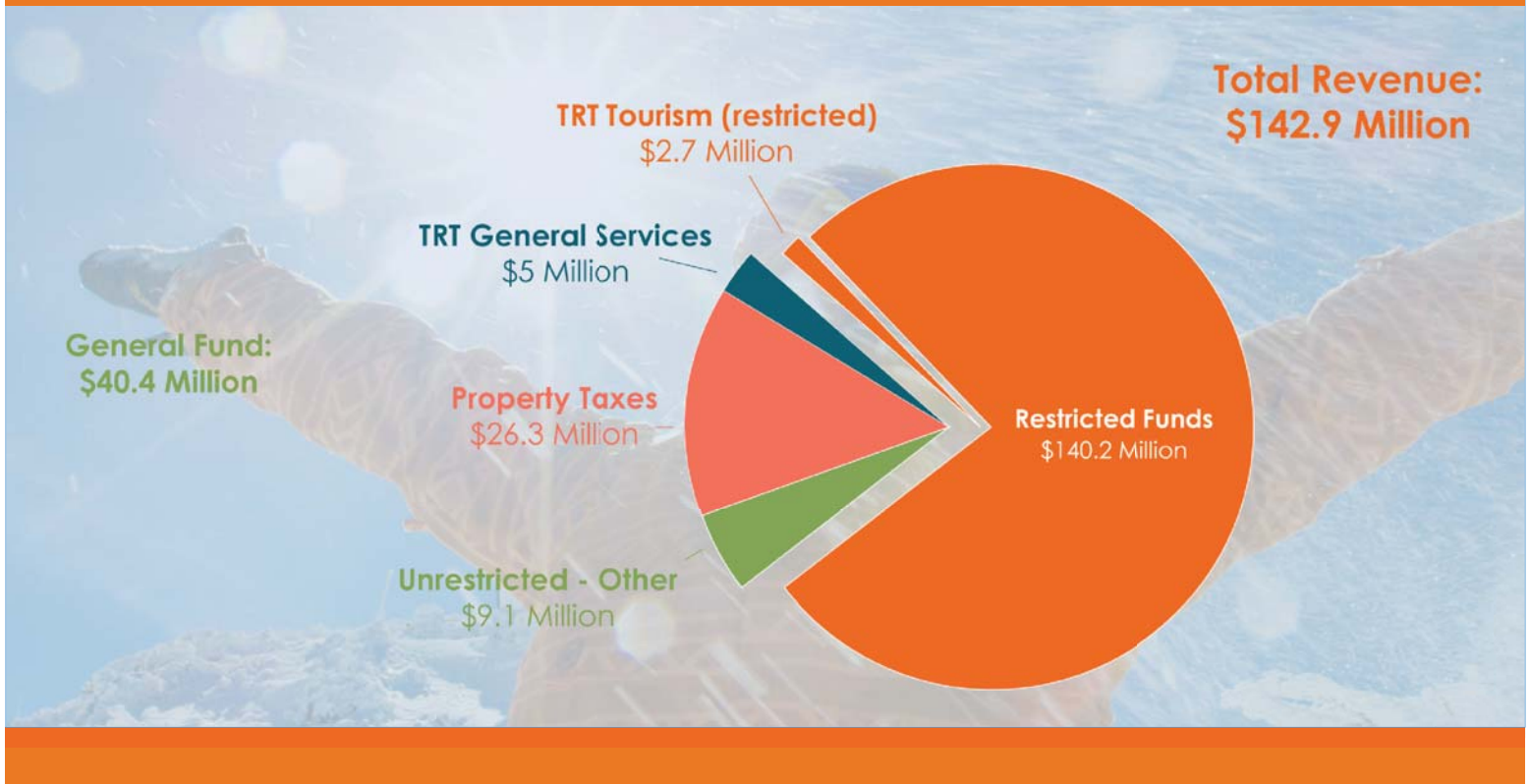
■ Lifestyle ■ Standard

How Does the City Plan for Tomorrow's Economy Utilizing Transient Room Tax Revenue (TRT)?

WHERE OUR REVENUES COME FROM AND HOW WE SPEND THEM



WHERE OUR REVENUES COME FROM AND HOW WE SPEND THEM



HOW DOES THE SPLIT WORK OUT IN REAL LIFE?



Average Hotel Night in Bend, FY 2016:

\$120.95

X 10.4% Tax Rate =

\$12.58

65% to General Fund:

\$8.17

35% Restricted
to Tourism Fund:

\$4.41

HOW IT WORKS

Visit Bend Board creates and approves an annual business plan

EARLY SPRING

Business Plan which includes a Budget is presented to the City's Economic Development Advisory Board [BEDAB]

EARLY SPRING

BEDAB recommends (or does not recommend) approval of the Business Plan

SPRING

City Council adopts the annual Business Plan and Budget – by the second City Council meeting

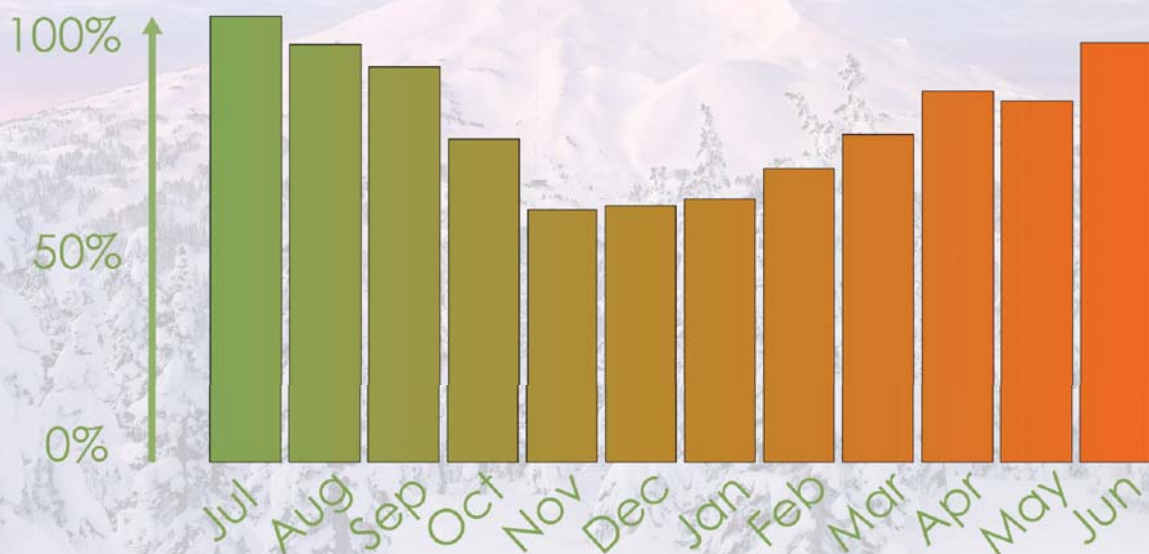
MAY

WHO IS VISIT BEND?

VISIT BEND is an innovative, full-service marketing, PR, and advertising organization, with one client: The Bend Tourism Industry. Visit Bend is dedicated to enhancing Bend's economy.

What Drives Visit Bend?

BEND, OR OCCUPANCY RATES



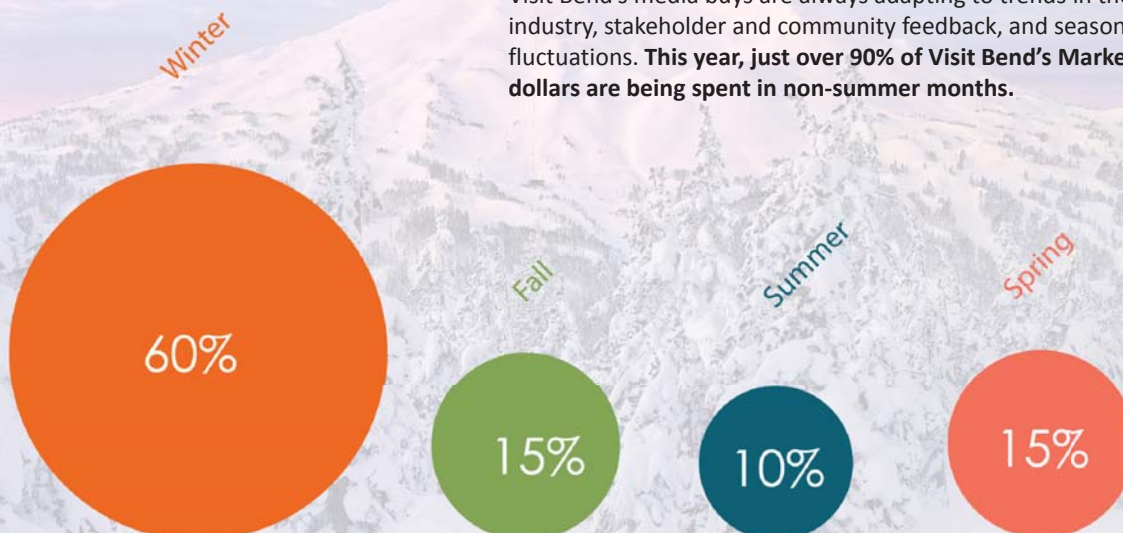
Where? When? Who? How?

Visit Bend's media buys and advertisements are data driven. Visit Bend is continually conducting visitor behavior research that lays the foundations for where we market, when we market, who we market to, and how we do it.



Where? When? Who? How?

Visit Bend's media buys are always adapting to trends in the industry, stakeholder and community feedback, and seasonal fluctuations. **This year, just over 90% of Visit Bend's Marketing dollars are being spent in non-summer months.**



Where? When? Who? How?



Who we market to:

Over 80% of Visit Bend's marketing dollars are spent targeting one demographic:

Married females, age 35+, Household Income of \$75K+, with one of more child(ren) under the age of 18 living at home.

Where? When? Who? How?

Visit Bend utilizes a cross-platform strategy to achieve maximum reach and frequency to achieve its goals to our targeted audience.



40%
television

25%
digital



20%
radio

15%
print



THANK YOU!

IT'S JUST OREGON.
NO BIG DEAL.



OUR VISION: A better life for Oregonians through strong, sustainable local economies.

OUR MISSION: We inspire travel that drives economic development. Through innovation and partnerships, we share the stories of Oregon's people and places, ensuring the preservation of Oregon's way of life and natural places.



2

TRAVEL OREGON DEPARTMENTS & PROGRAMS

Industry & Visitor Services

- State Welcome Centers
- Oregon Tourism Conference
- Grants

Global Marketing

- Consumer marketing
- Integrated and digital
- Branding and creative
- Research and analytics
- Communications

Global Sales

- Domestic and int'l travel trade
- International media
- Target markets: Americas, Asia, Europe and Oceania

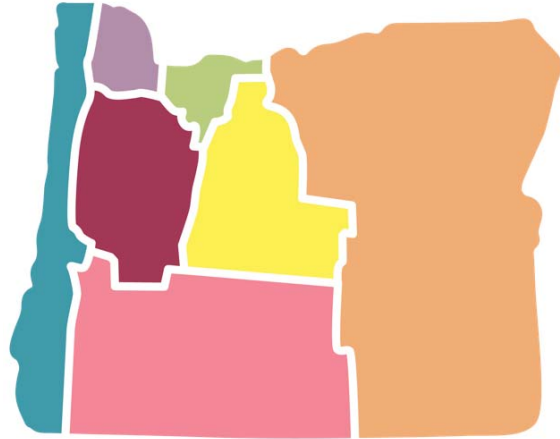
Destination Development

- Oregon Tourism Studios
- Product development
- Travel Oregon Forever
- Regional Cooperative Tourism Program

3

TRAVEL OREGON STRATEGIC PLAN 2015–2017 IMPERATIVES

- Optimize Statewide Economic Impact
- Support & Empower our Partners
- Champion the Value of Tourism
- Run an Effective Business



4

TOURISM INDUSTRY PARTNERING STRUCTURE



5

OREGON'S 7 TOURISM REGIONS



6

STATE LODGING TAX ... BASIC FACTS

- State tax revenues fund Oregon Tourism Commission which does business as Travel Oregon, the state's tourism agency.
- State lodging taxes are 1% of lodging charges incurred. (Raises about \$18 million)
- 1% state lodging tax first imposed with passage of HB 2267 (2003). Bill became effective October 7, 2003 under Gov. Ted Kulongoski administration
- July 1, 2016: .8% state lodging tax increase for 4 years, then lowered to a .5% increase (starting July 1, 2020) HB 4146 (2016)
 - 20% – Regional Cooperative Tourism Program
 - 10% – Cooperative Grant Program

7

OREGON TOURISM PERFORMANCE

	In 2003	In 2015	Change
Direct Employment	85,600 jobs	105,600 jobs	+23%
Employee Earnings	\$1.7 billion	\$2.8 billion	+65%
Visitor Spending	\$6.5 billion	\$10.8 billion	+66%
Taxes (State/Local)	\$242 million	\$458 million	+89%

Source: Oregon Travel Impacts, Dean Runyan Associates, 2016

8

YOU MAY KNOW US FROM...



9

YOU MIGHT LIKE OREGON ANTHEM...



10

PONZI SPOT



11



"Tourism is a job creator on its own, but it's also essentially the front door of the rest of the economy."

- Duncan Wyse
President, Oregon Business Council

Scott West
Chief Strategy Officer
Scott@TravelOregon.com



CITY OF TIGARD, OREGON
TIGARD CITY COUNCIL
ORDINANCE NO. 16-

AN ORDINANCE ADDING CHAPTER 3.85 TO THE TIGARD MUNICIPAL CODE TO ESTABLISH A _____ PERCENT TAX ON TRANSIENT LODGING IN THE CITY OF TIGARD

WHEREAS, ORS 320.350 allows local governments to establish transient lodging taxes and provides for the use of revenues; and

WHEREAS, the Tigard City Council wishes to amend the Municipal Code to adopt a new Chapter 3.85 to impose a transient lodging tax of _____ percent in the City; and

WHEREAS, the Tigard City Council wishes to dedicate the revenues from the transient lodging tax to _____.

NOW, THEREFORE, THE CITY OF TIGARD ORDAINS AS FOLLOWS:

SECTION 1: The Tigard Municipal Code is amended to add a new Chapter 3.85, Local Transient Lodging Tax, as provided in Exhibit A.

SECTION 2: The sections, subsections, paragraphs and clauses of this ordinance are severable. The invalidity of one section, subsection, paragraph, or clause shall not affect the validity of the remaining sections, subsections, paragraphs and clauses.

SECTION 3: This ordinance shall be effective _____.

PASSED: By _____ vote of all council members present after being read by number and title only, this _____ day of _____, 2016.

Carol A. Krager, City Recorder

APPROVED: By Tigard City Council this _____ day of _____, 2016.

John L. Cook, Mayor

Approved as to form:

Ordinance No. _____

City Attorney

Date

Ordinance No. _____

TIGARD MUNICIPAL CODE

Chapter 3.85 LOCAL TRANSIENT LODGING TAX

Sections:

3.85.010	Purpose
3.85.020	Definitions
3.85.030	Tax Imposed
3.85.040	Collection
3.85.050	Provider's Duties
3.85.060	Exemptions
3.85.070	Registry
3.85.080	Returns
3.85.090	Penalties and Interest
3.85.100	Deficiencies
3.85.110	Redetermination
3.85.120	Security
3.85.130	Refunds
3.85.140	Expenditure of Funds
3.85.150	Collection Fee
3.85.160	Administration
3.85.170	Notice
3.85.180	Appeals
3.85.190	Violations and Penalty
3.85.200	Intergovernmental Agreement

3.85.010 Purpose

The purpose of this chapter is to impose a tax upon the Transient Lodging by any Occupant in the City of Tigard.

3.85.020 Definitions

As used in this ordinance, unless the context requires otherwise:

1. "City" means the City of Tigard, Oregon.
2. "City Council" means the City Council of the City of Tigard, Oregon.
3. "Finance Department" means the Finance Department of the City.
4. "Finance Director" means the Director

of the Finance Department or their designee.

5. "Lodging" means "Transient Lodging" as defined by ORS 320.300, except that "Lodging" shall not include dwelling units at nonprofit facilities, dormitory rooms used for educational purposes, camping sites, and recreational vehicle sites.

6. "Occupancy" means the use or possession, or the right to use or possession, for lodging purposes, of any space, or portion thereof, in Lodging.

7. "Occupant" means a person who uses or possesses, or who has the right to use or possess any space, or portion thereof, in a Lodging.

8. "Rent" means the consideration charged, whether or not received by the Transient Lodging Provider, for the occupancy of space in Lodging, whether or not valued in money, without any deduction.

9. "Tax" or "Taxes" means either the Tax payable by the Occupant or the aggregate amount of Taxes due from a Provider during the period for which the Provider is required to report collections.

10. "Transient Lodging Provider" or "Provider" means the person who is the proprietor of a Lodging in any capacity. Where management functions are performed through a managing agent other than an employee, the managing agent who shall have the same duties and liabilities as the proprietor shall be the Provider. Compliance with the provisions of this Chapter by either the proprietor or the managing agent shall be considered to be compliance by both.

3.85.030 Tax Imposed

For the privilege of Occupancy in any Lodging, each Occupant shall pay a Tax in the amount of _____ percent (____%) of the Rent

TIGARD MUNICIPAL CODE

charged by the Transient Lodging Provider. The Tax constitutes a debt owed by the Occupant to the City, which is extinguished only by payment to the Transient Lodging Provider at the time the Rent is paid. The Transient Lodging Provider shall enter the Tax on the Provider's records when the Rent is collected. If the Rent is paid in installments, a proportionate share of the Tax shall be paid by the Occupant to the Provider with each installment. If for any reason the Tax due is not paid to the Provider, the Finance Director may require that the Tax be paid directly to the City. The tax must be computed on the total retail price, including all charges other than taxes, paid by a person for occupancy of the Transient Lodging.

3.85.040 Collection

1. Except when Occupants or Lodgings are exempt under this Chapter, every Transient Lodging Provider renting Occupancy in a Lodging in the City shall collect a Tax from the Occupant. The Tax collected or accrued by the Provider constitutes a debt owing by the Provider to the City.

2. In cases of credit or deferred payment of rent, the payment of the Tax to the Provider may be deferred until the Rent is paid, and the Provider shall not be liable for the Tax until the credit is paid or the deferred payment is made.

3. The Finance Director shall enforce this Chapter and the City may adopt policies, rules, and regulations consistent with this Chapter as necessary to aid in the enforcement.

3.85.050 Provider's Duties

Each Transient Lodging Provider shall collect the Tax imposed by this Chapter on an Occupant. The amount of the Tax shall be separately stated upon the Provider's records and on any receipt for the Rent rendered by the Provider to the Occupant. No Provider shall advertise that the Tax or any part of the Tax will

be assumed or absorbed by the Provider, or that it will not be added to the Rent, or that, when added, any part will be refunded.

3.85.060 Exemptions

No Tax imposed by this Chapter shall be imposed upon dwelling units described in ORS 320.308.

3.85.070 Registry

1. Every person engaging or about to engage in business as a Transient Lodging Provider in this City shall register with the City on a form provided by the Finance Department. Providers starting business must register within 30 calendar days after commencing business. The privilege of registration after the date of imposition of the Tax shall not relieve any person from the obligation of payment or collection of Tax regardless of registration. Registration forms shall require the name under which a Provider transacts or intends to transact business, the location of the place of business, and other similar additional information required by the Finance Department to facilitate the collection of the Tax. The registration shall be signed or electronically submitted by the Provider.

2. The Finance Department shall, within fifteen business days after registration, issue without charge a **certificate of authority** to each Provider to collect the Tax from the Occupant, together with a duplicate thereof for each additional place of business of each Provider. Certificates shall be non-assignable and nontransferable and shall be surrendered immediately to the Finance Department upon the cessation of business at the location named, or upon the business sale or transfer. Each certificate and duplicate shall state the place of business to which it is applicable and shall be prominently displayed.

3. The certificate shall state, at

TIGARD MUNICIPAL CODE

minimum, the following:

- a. The name of the Provider,
- b. The address of the Lodging,
- c. The date upon which the certificate was issued, and
- d. This statement: “This Transient Lodging Registration Certificate signifies that the person named has fulfilled the requirements of the Transient Lodgings Tax Chapter of the Tigard Municipal Code for the purpose of collecting and remitting the Lodgings Tax. This certificate does not authorize any person to conduct any unlawful business or to conduct any lawful business in an unlawful manner, or to operate a Lodging without strictly complying with all local applicable laws, including but not limited to those requiring a permit from any board, commission, department or office of the City. This certificate does not constitute a permit.”

3.85.080 Returns

1. The Tax imposed by this Chapter shall be paid by the Occupant to the Transient Lodging Provider when the Occupant pays Rent to the Provider. All Transient Lodging Taxes collected by a Provider are due and payable to the Finance Department, on a quarterly basis, on or before the last day of the month following the end of the calendar quarter, or, if the last day is not a business day, the next business day thereafter.

2. Providers shall file, with the quarterly Tax payment, or, if there is no Tax payment due for a given quarter, at the time the Tax payment would have been due, a return for that quarter's Tax collections. The return shall be filed with the Finance Department and shall be on a form prescribed by the Finance Department. The return shall reflect the amount of Tax collected or otherwise due for the period for which the return is filed. At the discretion of the Finance Director, it

may also reflect:

- a. The total rentals upon which the Tax is collected or otherwise due,
- b. Gross receipts of the Provider for the period,
- c. The amount of Rents exempt, if any, and
- d. An explanation in detail of any discrepancies.

3. The Provider or his/her designee shall deliver the quarterly Tax payment and return to the Finance Department at its office either by personal delivery, via a website portal, or by United States Mail. If the return and Taxes are mailed, the postmark shall be considered the date of delivery for determining delinquency.

4. At any time before the due date, the Finance Director may, for good cause, extend the due date for making any return and/or payment of Tax for up to thirty days after the date the Tax would have become due but for the extension. Further extensions must be approved by the City Manager. A Provider who is granted an extension shall pay a fee of three percent (3%) per month of the unpaid tax without proration for a fraction of a month.

5. If the Finance Director deems it necessary, in order to ensure payment or to facilitate collection by the City of the amount of Taxes in any individual case, the Finance Director may require that payment of the Taxes be made in other than quarterly periods.

3.85.090 Penalties and Interest

1. A penalty will be imposed on a Provider who mails, hand delivers, or submits online the return and the Tax payment after the due date. The penalty is **five percent (5%)** of the

TIGARD MUNICIPAL CODE

unpaid tax. If the Provider files and/or pays more than thirty days after the due date, an additional ten percent (10%) penalty of the unpaid tax will be added to the balance of the unpaid tax. Interest at the rate of ____ percent (____%) per annum will be imposed on any unpaid tax and penalties starting 60 days after the due date until the date payment in full is received by the Finance Department.

2. If the Finance Director determines that the nonpayment of any remittance due under this Chapter is due to fraud or intent to evade the provisions of this Chapter, a penalty of eighteen percent (18%) of the amount of the Tax shall be added, in addition to the penalties and interest above.

3.85.100 Deficiencies

1. If the Finance Director determines that a return is incorrect, the Finance Director may compute and determine or estimate the amount required to be paid based on the facts contained in the return or returns or any other information within the Finance Director's possession. One or more deficiency determinations may be made on the amounts due for one or more periods.

2. In making a deficiency determination, the Finance Director may offset overpayments, if any, which may have been previously made for a period or periods against any deficiency for a subsequent period or periods, or against penalties and interest on the deficiency.

3. Once a deficiency determination is made, the Finance Director shall serve a written deficiency notice on the Provider (or Occupant, in the case of a request for a refund). The notice may be given personally or sent by United States mail. If sent by mail, the notice shall be addressed to the Provider at his/her address as it appears on the records of the City or as the City can best determine.

4. Any deficiency is due and payable

thirty (30) days after the Finance Director serves the written deficiency notice. If not paid by the thirtieth day after service of a deficiency notice, the amount shall be delinquent and penalties and interest shall be applied as established in this Chapter.

5. The Provider (or Occupant, in the case of a request for a refund) may petition for a redetermination provided that the petition is filed within fifteen (15) days of service of the deficiency notice. Nothing prohibits the Finance Director from extending the time for petition beyond fifteen (15) days at his/her discretion.

6. Except as provided in this Chapter, every deficiency determination shall be made and notice mailed within three (3) years after a return was originally filed or subsequently amended, whichever period expires later. In the case of the filing of a false or fraudulent return with the intent to evade this Chapter, a failure to file a required return, or a willful refusal to collect and remit the Tax, a deficiency determination may be made, or a proceeding for the collection of the deficiency may be commenced at any time.

7. If the Finance Director believes that the collection of any Tax required to be collected and paid to the City will be jeopardized by delay, or if any determination will be jeopardized by delay, the Finance Director may make a determination of the Tax or amount of Tax required to be collected. The Finance Director will serve a written deficiency notice and demand for immediate payment on the Provider. The amount shall be immediately due and payable, and the Provider shall immediately pay such determination to the City after service of the notice, provided, however, the Provider may petition, after payment has been made, for a redetermination of the Finance Director's assessment, provided that the petition is filed within fifteen (15) days of service of the deficiency notice.

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3.85.110 Redetermination

1. If a petition for redetermination, redemption, and refund is filed within the requisite time period, the Finance Director shall reconsider the determination, and, if the person has so requested in his/her petition, shall grant the person an oral hearing and shall give him/her fifteen (15) days' notice of the time and place of the hearing. The Finance Director may continue the hearing from time to time as necessary.

2. The Finance Director may decrease or increase the amount of the determination as a result of the reconsideration, the hearing, or both, and, if an increase is determined, such increase shall be payable immediately after the reconsideration or the hearing, as appropriate.

3. The decision of the Finance Director upon a petition for redetermination, redemption, and refund becomes final fifteen (15) days after service of the notice of decision upon the petitioner.

4. No petition for redetermination, redemption, or refund or other appeal shall be accepted and no petition is effective for any purpose unless the Provider has first complied with the payment provision of this Chapter and has paid in full the amount determined to be due under the decision appealed from.

3.85.120 Security

The Finance Director, whenever the Finance Director deems it necessary to ensure compliance with this Chapter, may require any Provider subject to this Chapter to deposit with the Finance Director security in the form of cash, bond, or other assets, as the Finance Director determines. The amount of the security shall be fixed by the Finance Director but shall not be greater than the Provider's estimated quarterly liability for the period for which the Provider files returns, determined in a manner the Finance Director

deems proper, or five hundred dollars (\$500), whichever amount is less. The amount of security may be increased or decreased by the Finance Director within the limitation of this Section.

3.85.130 Refunds

1. Whenever the amount of any Tax imposed under this Chapter has been paid more than once or has been erroneously or illegally collected or received by the Finance Department, it may be refunded, provided a verified claim in writing, stating the specific reason upon which the claim is founded, is filed with the Finance Director within two (2) years from the date of payment. The claim shall be made on forms provided by the Finance Department. If the claim is approved, the excess amount collected or paid may be refunded to the Provider from whom it was collected or by whom it was paid, or the Provider's administrators, executors, or assignees. Alternatively, at the discretion of the Finance Director, the refund may be credited toward any amounts then due and payable from the Provider from whom it was collected or by whom it was paid, and the balance, if any, may be refunded to the Provider or the Provider's administrators, executors, or assignees.

2. Whenever the Tax required by this Chapter has been collected by the Provider and it is later determined that the Occupant has occupied the occupancy for a period exceeding thirty (30) days without interruption, the Provider shall refund to the Occupant the Tax previously collected by the Provider from the Occupant. If the Provider has remitted the Tax prior to refund or credit to the Occupant, the Provider shall be entitled to a corresponding refund under this Section. The Provider shall account for all collections and refunds under this subsection to the Finance Department.

3.85.140 Expenditure of Funds

All money collected pursuant to this Chapter

TIGARD MUNICIPAL CODE

shall be the general funds of the City and may be used in any lawful manner, as prescribed by state law.

3.85.150 Collection Fee

Every Provider liable for collection and remittance of the Tax imposed by this Chapter may withhold **five percent (5%)** of the net Tax due to cover expenses in its collection and remittance.

3.85.160 Administration

1. Every Provider shall keep records of rentals and accounting books that are sufficient to demonstrate compliance with the provisions of this Chapter. These records shall be retained for three (3) years and six (6) months after they are created.

2. The Finance Director may examine, during normal business hours, the books, papers, and accounting records relating to rentals of any Provider liable for the Tax, after notification to the Provider, and may investigate the business of the Provider in order to verify the accuracy of any return made, or if no return is made by the Provider, to ascertain and determine the amount required to be paid.

3. A formal audit of all of the Providers' records may be conducted at the discretion of the Finance Director. If, under this formal audit, it is determined that any Provider has underpaid the Taxes due by 3% or more, the Provider shall pay his/her prorated portion of the total audit fee. Should the Finance Director, in his/her sole discretion, conduct or cause to be conducted individual audits in addition to the audit anticipated above, and should that individual audit determine that the audited Provider has underpaid the Taxes due by 3% or more, the Provider shall pay the total individual audit fee.

4. Except as otherwise required by law, it shall be unlawful for any officer, employee, or agent of the City to divulge, release, or make

known in any manner any financial information submitted or disclosed to the City under the terms of this Chapter. Nothing in this Section shall be construed to prohibit:

a. The disclosure to, or the examination of, financial records by City officers, employees, or agents for the purpose of administering or enforcing the terms of this Chapter, or collecting Taxes imposed under the terms of this Chapter;

b. The disclosure to the taxpayer or his/her authorized representative of financial information, including amounts of Transient Lodging Taxes, penalties, or interest, after filing of a written request by the taxpayer or his/her authorized representative and approval of the request by the Finance Director;

c. The disclosure of the names and addresses of any person to whom this Chapter applies;

d. The disclosure of general statistics in a form which would prevent the identification of financial information regarding any particular taxpayer's return or application; or

e. The disclosure of financial information to the City Attorney or other legal representative of the City to the extent the Finance Director deems disclosure or access necessary for the performance of the duties of advising or representing the Finance Director, the Finance Department, or the City.

3.85.170 Notice

In case of service by mail of any notice required by this Chapter, the service is complete three days after deposit with the United States Post Office.

TIGARD MUNICIPAL CODE

3.85.180 Appeals

Any person aggrieved by any decision of the Finance Director may appeal to the City Manager (or his or her designee) by filing a notice of appeal with the Finance Director within fifteen (15) days of the serving of the notice of the Finance Director's decision. The Finance Director shall transmit the notice, together with the file of the appealed matter, to the City Manager, who shall fix a time and place for hearing the appeal. The City Manager shall give the appellant not less than fifteen (15) days' written notice of the time and place for hearing the appeal. The City Manager may continue the hearing from time to time as necessary.

3.85.190 Violations and Penalty

1. No Provider or other person required to do so may fail or refuse to, in the time periods prescribed by this Chapter, furnish any return required to be made under this Chapter or furnish a supplemental return or other data required by the Finance Director, or make the remittance to the Finance Director of the amount of the Taxes, penalties, or interest due. No person may render a false or fraudulent return under this Chapter. No person required to make, render, sign, or verify any report regarding the Tax may make any false or fraudulent report.

2. At any time within three (3) years after any Tax required to be collected becomes due and payable, at any time within three years after any determination by the Finance Director or City Manager under this Chapter becomes final, or at any time within three (3) years after any person who is required to do so fails to furnish true and non-fraudulent information within the time periods prescribed by this Chapter, the City may commence and prosecute to final determination in any court of competent jurisdiction an action to collect the same.

3. A person who violates a provision of

this chapter commits a Class 1 civil infraction. Each transient lodging transaction for which tax, penalty or interest otherwise due is not paid shall be deemed a separate civil infraction. Each day a person fails to register as a transient lodging tax collector shall be deemed a separate civil infraction.

3.85.200 Intergovernmental Agreement

The City Council may enter into an IGA with Washington County whereby the County is responsible for the administration, collection, distribution, or enforcement of the tax authorized under this chapter, either in full or in part. The terms of that agreement shall apply in lieu of and shall supersede conflicting provisions of this chapter but shall not be construed as repealing any provision of this chapter.

Cities with Transient Lodging Tax and Their Tax Rate

Source: League of Oregon Cities

	City	Current TLT Rate			
1	Enterprise	3%	44	Hermiston	8%
2	Sandy	3%	45	Hines	8%
3	Umatilla	3.50%	46	Hood River	8%
4	Beaverton	4%	47	Junction City	8%
5	Oregon City	4%	48	Lowell	8%
6	Heppner	5%	49	Oakridge	8%
7	La Grande	5%	50	Pendleton	8%
8	Wilsonville	5%	51	Portland	8%
9	Winston	5%	52	Roseburg	8%
10	Bandon	6%	53	Seaside	8%
11	Brookings	6%	54	Sisters	8%
12	Condon	6%	55	Sutherlin	8%
13	Fairview	6%	56	The Dalles	8%
14	Gold Beach	6%	57	Veneta	8%
15	Gresham	6%	58	Westfir	8%
16	Keizer	6%	59	Prineville	8.50%
17	Lake Oswego	6%	60	Albany	9%
18	Metolius	6%	61	Ashland	9%
19	Phoenix	6%	62	Astoria	9%
20	Reedsport	6%	63	Burns	9%
21	Rogue River	6%	64	Central Point	9%
22	Shady Cove	6%	65	Corvallis	9%
23	Sweet Home	6%	66	Cottage Grove	9%
24	Talent	6%	67	Florence	9%
25	Wood Village	6%	68	Grants Pass	9%
26	Troutdale	6.95%	69	Jacksonville	9%
27	Cannon Beach	7%	70	Lebanon	9%
28	Cascade Locks	7%	71	Madras	9%
29	Coos Bay	7%	72	Manzanita	9%
30	Gearhart	7%	73	Medford	9%
31	Milton-Freewater	7%	74	Nehalem	9%
32	North Bend	7%	75	Ontario	9%
33	Port Orford	7%	76	Redmond	9%
34	Stayton	7%	77	Rockaway Beach	9%
35	Sublimity	7%	78	Salem	9%
36	Waldport	7%	79	Silverton	9%
37	Yachats	7%	80	Wheeler	9%
38	Lakeside	7.50%	81	Woodburn	9%
39	Coburg	8%	82	Eugene	9.50%
40	Creswell	8%	83	Lincoln City	9.50%
41	Depoe Bay	8%	84	Newport	9.50%
42	Dunes City	8%	85	Springfield	9.50%
43	Garibaldi	8%	86	Tillamook	10%
			87	Bend	10.40%
			88	Warrenton	12%
				Average	7.5%

AIS-2851

7.

Business Meeting

Meeting Date: 11/01/2016

Length (in minutes): 30 Minutes

Agenda Title: Receive Update on Willamette Water Supply Project
Intake Structure Allocation

Prepared For: Brian Rager **Submitted By:** John Goodrich,
Public Works

Item Type: Update, Discussion, Direct Staff **Meeting Type:** Council
Business Meeting - Main

Public Hearing No

Newspaper Legal Ad Required?:

Public Hearing Publication

Date in Newspaper:

Information

ISSUE

Briefing update and discussion on long range regional water supply planning and Tigard's opportunity to secure future water sources.

STAFF RECOMMENDATION / ACTION REQUEST

Receive update and provide direction regarding Tigard's investment and participation in long range regional water supply planning.

KEY FACTS AND INFORMATION SUMMARY

The City of Tigard is a member of the Willamette River Water Coalition (WRWC) with three other agencies—the cities of Tualatin and Sherwood, and the Tualatin Valley Water District (TVWD). Combined, the WRWC has about 130 million gallons per day (mgd) in water rights on the Willamette River. Tigard's portion is 25 mgd.

In the context of long-term water source planning, the city has investigated several Willamette River supply options. One of these is the Willamette Water Supply Program, a regional water supply being developed to serve the Tualatin Valley Water District, and the cities of Hillsboro and Beaverton. The city is participating in numerous projects related to this effort, including:

- Willamette Water Supply Preliminary Design

- Wilsonville Water Treatment Plant Master Plan Update
- Willamette Governance Group (WGG)

Excess System Capacity

TVWD, and the cities of Wilsonville and Sherwood have existing ownership in the Wilsonville Water Treatment Plant, including a key component: the intake structure and raw water pumping system. Through the work of the preliminary design and treatment plant master planning efforts, the intake structure is capable of expansion to a maximum capacity of 140 mgd. TVWD has determined that excess system capacity is available to other water providers, including Tigard. Through an allocation formula, TVWD has extended an offer to Tigard for an ownership share equaling 9 percent of the total capacity or 12.7 mgd. This is only for the headwork intake structure as a separate system asset.

Tigard would need to construct or partner with others for additional water treatment capacity and pipeline conveyance to fully develop the 12.7 mgd. However, these would be long range costs that would occur when Tigard's water service area needs grew to a point where additional water supply capacity was warranted. This could be due to growth or to provide redundant water as a "back up" water supply. Staff has attached a water supply options chart indicating future water demand need for council discussion.

Council Consideration

The workshop update and discussion will be divided into three parts:

- **Briefing and update** – Brian Rager, Dennis Koellermeier, and John Goodrich will present long-range regional water supply planning updates and information.
- **Questions and clarification** - Staff will be prepared to provide additional information regarding the program, intake structure allocation, cost share, and project schedule.
- **Council direction** – Council will be asked to consider whether additional meetings on this topic should be scheduled. Based on direction from council, staff has scheduled an agenda item for the December 13 council business meeting concerning a motion to approve participation in the program and allocated capacity for intake structure. Council will need to consider if the benefits of early "asset buy-in" of intake structure capacity is cost effective to meet the Tigard Water Service Area needs and long range water supply planning. The water supply project is moving forward very quickly. TVWD has requested a "yes or no" decision by December 30, 2016.

Willamette River Charter Prohibition

The City Charter states in Chapter IX, Section 51: "The City of Tigard shall not use the Willamette River as a drinking water source for its citizens unless the question of using the Willamette River as a drinking water source has been approved by not less than fifty (50%) percent of voters voting in a City-wide election (Measure 34-8, September 21, 1999 Election)." This prohibition does not apply to other jurisdictions served by Tigard, including Durham, King City, and the Tigard Water District. In 2010, the city attorney rendered an opinion that the purchase of future pipeline capacity—constructed by others and not connected to the Tigard water system—was not a violation of the City Charter.

OTHER ALTERNATIVES

N/A

COUNCIL OR CCDA GOALS, POLICIES, MASTER PLANS

N/A

DATES OF PREVIOUS CONSIDERATION

Council has been briefed numerous times regarding the Willamette River Water Coalition (WRWC), Willamette Water Supply Project, and city participation in various preliminary design studies relating to these boards and agencies.

Brief Summary:

- On September 20, 2016, council received an update on the Willamette Water Supply Project intake structure allocation and cost share. On February 28, 2015, council approved signing an agreement with other agencies and Willamette River Water Supply Program participants to facilitate future governance agreements regarding the program with no financial impact.
- On February 17, 2015, council was briefed on a facilitation agreement regarding Willamette River Water Supply governance.
- On October 28, 2014, council approved signing an agreement to participate in the Willamette River Water Treatment Plant master plan update and limited Tigard's financial contribution to \$50,000. On October 14, 2014, the council was briefed on an MOU regarding Tigard's participation in the master planning process for the Willamette River Water Treatment Plant located in Wilsonville.
- On May 27, 2014, the council was briefed on the development of a Willamette River water supply.
- On October 22, 2013, the council adopted the fiscal year 2014 First Quarter Supplemental Budget via Resolution No. 13-44. The supplemental budget included the allocation of \$100,000 from the water fund to participate in the preliminary design of the TVWD/Hillsboro Willamette Water Supply Program.
- At its July 16, 2013, workshop meeting, the council discussed and elected to participate in the preliminary design of the TVWD/Hillsboro Willamette Water Supply Program; the council limited Tigard's financial contribution to \$100,000.
- On June 15, 2010, the council discussed an agreement with Sherwood to develop a water supply pipeline and other improvements. This agreement was never finalized.

Fiscal Impact

Cost: 9,700,000

Budgeted (yes or no): No

Where Budgeted (department/program): Water SDC

Additional Fiscal Notes:

TVWD has provided a preliminary cost allocation of \$9,700,000 for 9 percent of intake capacity based on 12.7 million gallons per day of the 140 million gallons per day total capacity. The expansion and seismic upgrades necessary to design, permit, and construct the 140 mgd intake and pumping structure is approximately \$84,000,000 to be shared by all partners within the supply group based on their allocated capacity ratio.

Tigard would need to make an initial intake structure purchase based on depreciated 2016 asset costs of approximately \$639,000 by December 30, 2017. During the construction phase, Tigard would make progress payments based on its allocated cost share. Final payment for the completed intake structure project would be June 30, 2021.

All costs associated with the Willamette Water Supply Project, intake structure and pump facility is determined to be water system development charge eligible. Funding this purchase would come out of the water SDC improvement funds. For water financial planning purposes, the proposed purchase of intake structure capacity uses no utility revenues or water rate increases to fund this project's participation between 2017 and 2021.

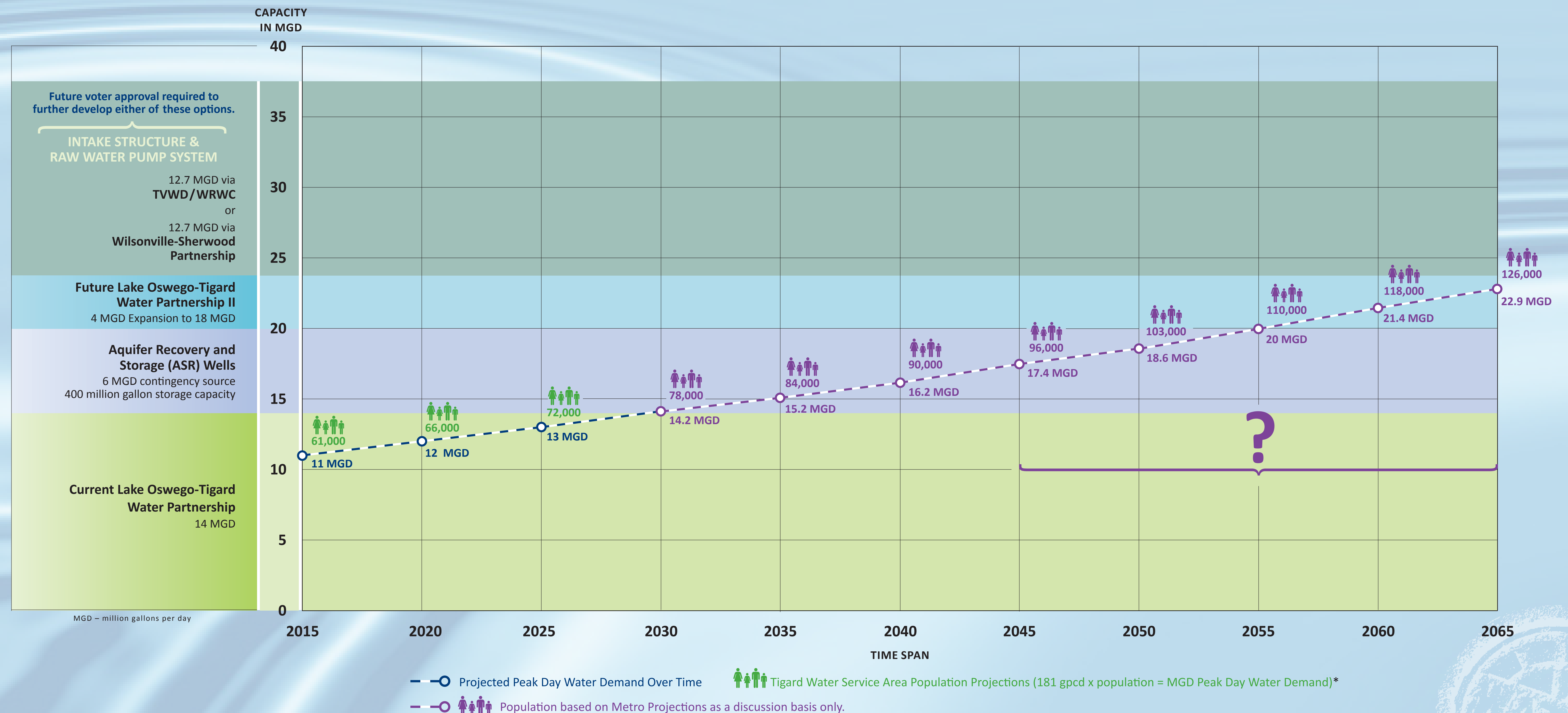
Attachments

Water Supply Options 2015-2065

Water Source Options 2015–2065

Lake Oswego - Tigard Water Partnership (LOTWTP) | Tualatin Valley Water District (TVWD) - Willamette River Water Coalition (WRWC)

Decisions needed now: Invest in TVWD Intake Structure? | **Future Decisions:** Expand LOTWTP? | Expand WRWC?



AIS-2877

8.

Business Meeting

Meeting Date: 11/01/2016

Length (in minutes): 10 Minutes

Agenda Title: Consider Resolution Concurring with Washington County Findings Regarding Vacation of a Public Slope and Draining Easements in River Terrace

Prepared For: Kim McMillan **Submitted By:** Kelly Burgoyne, Central Services

Item Type: Resolution **Meeting Type:** Council Business Meeting - Main

Public Hearing No

Newspaper Legal Ad Required?:

Public Hearing Publication

Date in Newspaper:

Information

ISSUE

Should the council approve a resolution concurring with Washington County findings as to the vacation of a portion of public slope and drainage easements in River Terrace Northwest and Polygon at West River Terrace.

STAFF RECOMMENDATION / ACTION REQUEST

Staff recommends the council approve the attached resolution.

KEY FACTS AND INFORMATION SUMMARY

The Board of County Commissioners of Washington County has resolved to vacate a portion of public slope and drainage easements in River Terrace Northwest and Polygon at West River Terrace. The easements to be vacated were required for the construction of SW Roy Rogers Road and are no longer needed as a result of the area being redeveloped and graded to meet subdivision requirements.

The easements to be vacated are under the jurisdiction of the county, but lie entirely within the city limits of Tigard. It is therefore necessary for the City of Tigard to concur with the findings of the county governing body per ORS 368.361. A map of the proposed vacation is included with the attached resolution and order from the county (Exhibit 1).

OTHER ALTERNATIVES

Deny the resolution which would result in conflicts with the proposed development of River Terrace Northwest and Polygon at West River Terrace.

COUNCIL OR CCDA GOALS, POLICIES, MASTER PLANS

Promotes implementation of the River Terrace Community Plan.

DATES OF PREVIOUS CONSIDERATION

This is the first time the council will address this matter.

Attachments

Exhibit 1

Resolution

AGENDA

WASHINGTON COUNTY BOARD OF COMMISSIONERS

Agenda Category: Consent – Land Use & Transportation (CPO 4B)

Agenda Title: VACATE PUBLIC SLOPE AND DRAINAGE EASEMENTS IN RIVER TERRACE NORTHWEST AND POLYGON AT WEST RIVER TERRACE (VACATION NO. 529)

Presented by: Andrew Singelakis, Director of Land Use & Transportation

SUMMARY:

A petition was received by the Board to vacate portions of public slope and drainage easements granted in Deed Document Nos. 2001014226 and 2001014228 and lying in the southeast one-quarter of Section 6, T2S, R1W, W.M., Washington County, Oregon, as described and shown in the attached Vacation Report.

The easements proposed to be vacated were acquired for the construction of SW Roy Rogers Road and are no longer needed as a result of the area being redeveloped and graded to meet subdivision requirements. The adjacent subdivision plats, "River Terrace Northwest" and "Polygon at West River Terrace", have been recorded and the infrastructure has been constructed, thereby making these easements unnecessary for public use.

The vacation petition was signed by 100% of the abutting property owners. Staff has reviewed this request and has determined the vacation of the proposed public slope and drainage easements is in the public interest. There will not be any adverse impacts on the abutting properties or utilities.

A Resolution and Order has been prepared granting the requested vacation and, when executed, it will complete Washington County's portion of the vacation proceedings. These easements are in the city limits of Tigard. Pursuant to ORS 368.361(3), the City, by resolution or order, must concur in the findings of the county governing body to complete the vacation proceedings.

Attachments: 1. Resolution and Order
2. Vacation Report with legal description and map (Exhibit "A")

DEPARTMENT'S REQUESTED ACTION:

Vacate the public slope and drainage easements described in the attached Vacation Report and request that the City Council of the City of Tigard resolve or order concurrence with this vacation pursuant to ORS 368.361(3).

COUNTY ADMINISTRATOR'S RECOMMENDATION:

I concur with the requested action.

RO 16-118

Agenda Item No.	<u>2.e.</u>
Date:	<u>09/06/16</u>

IN THE BOARD OF COUNTY COMMISSIONERS
FOR WASHINGTON COUNTY, OREGON

In the Matter of the Vacation of public slope)	RESOLUTION AND ORDER
and drainage easements situated in the)	
southeast one-quarter of section 6, T2S,)	NO. <u>16-110</u>
R1 W, W.M., Washington County, Oregon)	VACATION NO. 529

The above-entitled matter having come on regularly before the Board at its meeting September 6, 2016; and

It appearing to the Board that a petition has been filed to vacate portions of public slope and drainage easements granted in Deed Document Nos. 2001014226 and 2001014228, and lying in the southeast one-quarter of Section 6, T2S, R1W, W.M., Washington County, Oregon, as described and shown in the attached Vacation Report. The petition was signed by owners of 100% of the property to be vacated and by the owners of 100% of the abutting properties, pursuant to ORS 368.351; and

It appearing to the Board that said petition did describe the portions of public slope and drainage easements to be vacated, the names of the parties to be particularly affected thereby, and set forth the particular circumstances of the case; and

It appearing to the Board that the portions of public slope and drainage easements, proposed to be vacated, are under the jurisdiction of Washington County and entirely within the corporate limits of the City of Tigard, Oregon as described in ORS 368.361(3); and

It appearing to the Board that the easements proposed to be vacated are no longer needed for the use of the public; and

It appearing to the Board that the County Road Official did examine the area proposed to be vacated and hereby submits to the Board the Vacation Report attached hereto, and by this reference made a part hereof, in accordance with ORS 368.351(1); it is therefore

RESOLVED AND ORDERED that the portions of public slope and drainage easements, proposed to be vacated and more particularly described in the attached Vacation Report, are hereby vacated as it is in the public interest. This vacation shall become final upon the formal concurrence of the City of Tigard by either resolution or order pursuant to ORS 368.361(3); and it is further

RESOLVED AND ORDERED that the County Surveyor of Washington County, Oregon, be and hereby is authorized and directed to mark the vacated easements on the plats and records of Washington County Oregon; and it is further


RESOLVED AND ORDERED that the County Surveyor of Washington County, Oregon, is hereby authorized and directed to have this order of vacation recorded in the records of Washington County, Oregon, and cause copies of this order to be filed with the Director of Assessment and Taxation and the County Surveyor's office in accordance with ORS 368.356(3).

Dated this 6th day of September, 2016.


	AYE	NAY	ABSENT
DUYCK	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
SCHOUTEN	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
MALINOWSKI	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
ROGERS	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>
TERRY	<input checked="" type="checkbox"/>	<input type="checkbox"/>	<input type="checkbox"/>

BOARD OF COUNTY COMMISSIONERS
FOR WASHINGTON COUNTY, OREGON


Chairperson


Recording Secretary

Approved as to form


Courtney D. Duke-Driessen
Assistant County Counsel
Date: August 24, 2016

Page 2 – R&O No. 16-118
Vacation No. 529



EXHIBIT A

April 14, 2016

LEGAL DESCRIPTION

Job No. 395-037

Vacation of Permanent Slope & Drainage Easements

Vacation of two permanent slope & drainage easements acquired by Eminent Domain in Court Case Nos. C991120CV and C99-1117CV, as recorded in Document Nos. 2001014226 and 2001014228, Washington County Records, within Lots 206 through 215 and Tracts L, M, and O, plat of "River Terrace Northwest", within Lot 9 and Tracts A and B, plat of "Polygon at West River Terrace", and within public right-of-way of SW Roy Rogers Road (County Road 3150), located in the Southeast Quarter of Section 6, Township 2 South, Range 1 West, of the Willamette Meridian, City of Tigard, Washington County, State of Oregon, more particularly described as follows:

Easement 1

BEGINNING at the Southeast corner of said Tract O;

thence along the southerly line of said Tract O, South $89^{\circ}20'24''$ West, a distance of 30.04 feet to the Southwest corner of said Easement described in Document No. 2001014226;

thence along the westerly line of said Easement, along a 1053.15 foot radius curve, concave westerly, with a radius point bearing South $81^{\circ}06'18''$ West, arc length of 73.99 feet, central angle of $04^{\circ}01'32''$, chord distance of 73.98 feet, and chord bearing of North $10^{\circ}54'28''$ West to an angle point;

thence continuing along said westerly line, North $17^{\circ}40'37''$ West, a distance of 339.52 feet to the Northwest corner of said Easement;

thence along the northerly line of said Easement, North $58^{\circ}48'40''$ East, a distance of 7.22 feet to the Northeast corner of said Easement;

thence along the easterly line of said Easement, along a 1086.62 foot radius non-tangential curve, concave westerly, with a radius point bearing South $58^{\circ}48'40''$ West, arc length of 427.65 feet, central angle of $22^{\circ}32'57''$, chord distance of 424.89 feet, and chord bearing of South $19^{\circ}54'51''$ East to the Southeast corner of said Easement;

thence along the southerly boundary line of said plat of "River Terrace Northwest", South $89^{\circ}20'24''$ West, a distance of 3.77 feet to the POINT OF BEGINNING.

Containing 0.29 acres, more or less.

Easement 2

BEGINNING at the Southeast corner of said Tract O;

thence along the southerly boundary of said plat of "River Terrace Northwest", North $89^{\circ}20'24''$ East, a distance of 3.77 feet to the Northeast corner of said Easement described in Document No. 2001014228;

thence along the easterly line of said Easement, along a 1086.62 foot radius non-tangential curve, concave westerly, with a radius point bearing South $81^{\circ}21'37''$ West, arc length of 130.50 feet, central angle of $06^{\circ}52'52''$, chord distance of 130.42 feet, and chord bearing of South $05^{\circ}11'57''$ East to a point of tangency;

thence continuing along said easterly line, South $01^{\circ}45'31''$ East, a distance of 167.41 feet to the Southeast corner of said Easement;

thence along the southerly line of said Easement, South $89^{\circ}20'24''$ West, a distance of 10.51 feet to the Southwest corner of said Easement;

thence along the westerly line of said Easement, North $01^{\circ}45'31''$ West, a distance of 167.21 feet to a point of tangential curvature;

thence continuing along said westerly line, along a 1076.11 foot radius tangential curve to the left, arc length of 53.68 feet, central angle of $02^{\circ}51'29''$, chord distance of 53.68 feet, and chord bearing of North $03^{\circ}11'16''$ West to a point of radial tangency;

thence continuing along said westerly line, South $85^{\circ}23'00''$ West, a distance of 22.97 feet to a point of radial curvature;

thence continuing along said westerly line, along a 1053.15 foot radius radial curve, concave westerly, arc length of 78.64 feet, central angle of $04^{\circ}16'42''$, chord distance of 78.62 feet, and chord bearing of North $06^{\circ}45'21''$ West to the Northwest corner of said Easement;

thence along the southerly line of said Tract O, North $89^{\circ}20'24''$ East, a distance of 30.04 feet to the POINT OF BEGINNING.

Containing 0.11 acres, more or less.

Basis of bearings being plat of "River Terrace Northwest", Washington County Plat Records.

REGISTERED
PROFESSIONAL
LAND SURVEYOR



OREGON
JULY 9, 2002
TRAVIS C. JANSEN
57751

RENEWS: 6/30/2017

N:\proj\395-037\09 Drawings\06 Survey\Legals\395037 Vacation\Slope and Drainage Easement.dwg - SHEET: Legal 014228 - Apr. 14, 16 - 6:43 AM 11

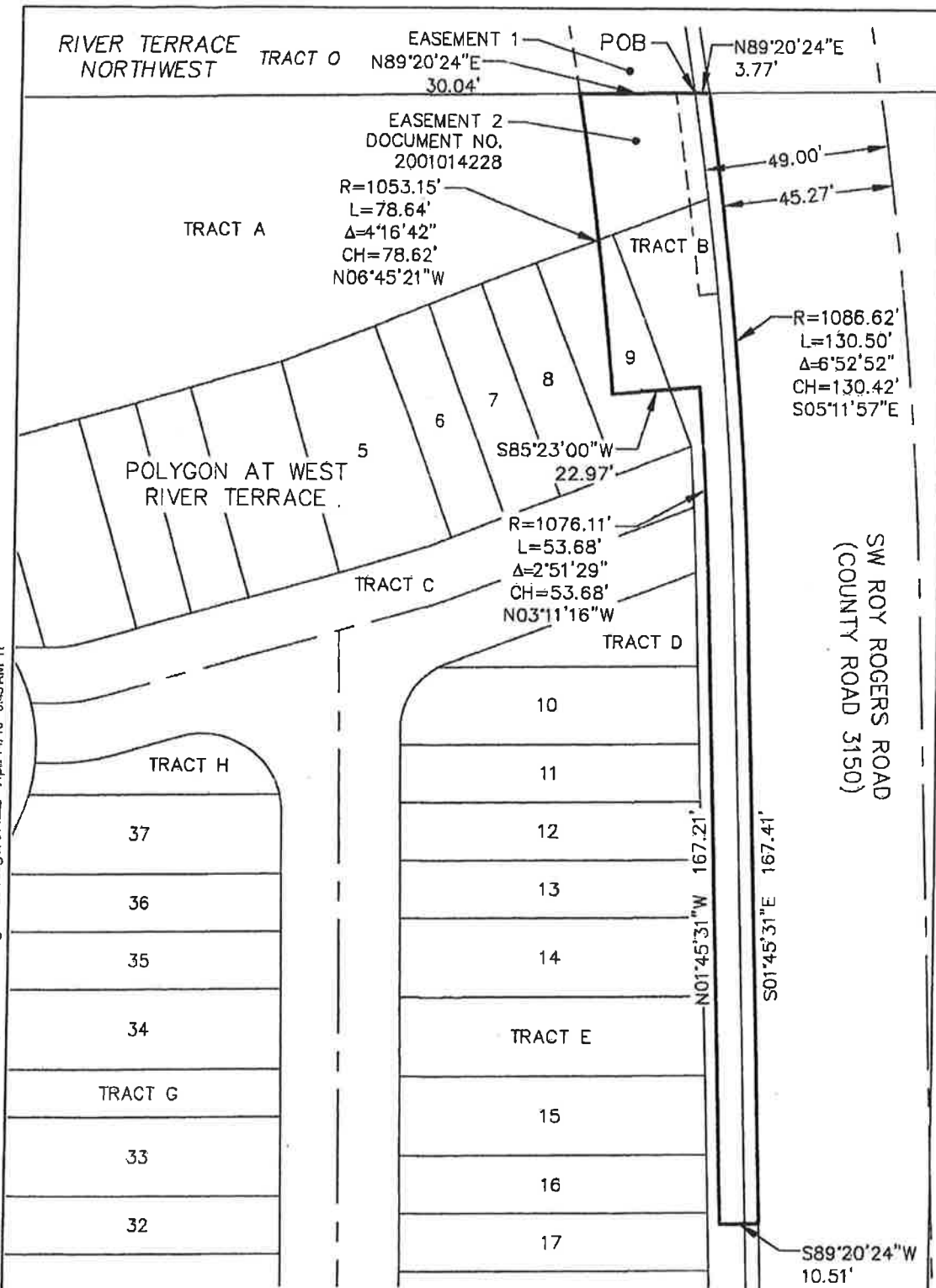


EXHIBIT B
VACATION OF PERMANENT SLOPE & DRAINAGE EASEMENTS

DRAWN BY: GPS DATE: 4/14/16
REVIEWED BY: TCJ DATE: 4/14/16
PROJECT NO.: 395-029
SCALE: 1"=40'
PAGE 4 OF 4



12564 SW Main St
Tigard, OR 97223
[T] 503-941-9484
[F] 503-941-9485

N:\proj\395-037\09 Drawings\04 Survey\Legals\395037 Vacation Slope and Drainage Easement.dwg - SHEET: Legal 01 4/226 Apr. 14, 16 - 6:43 AM 11

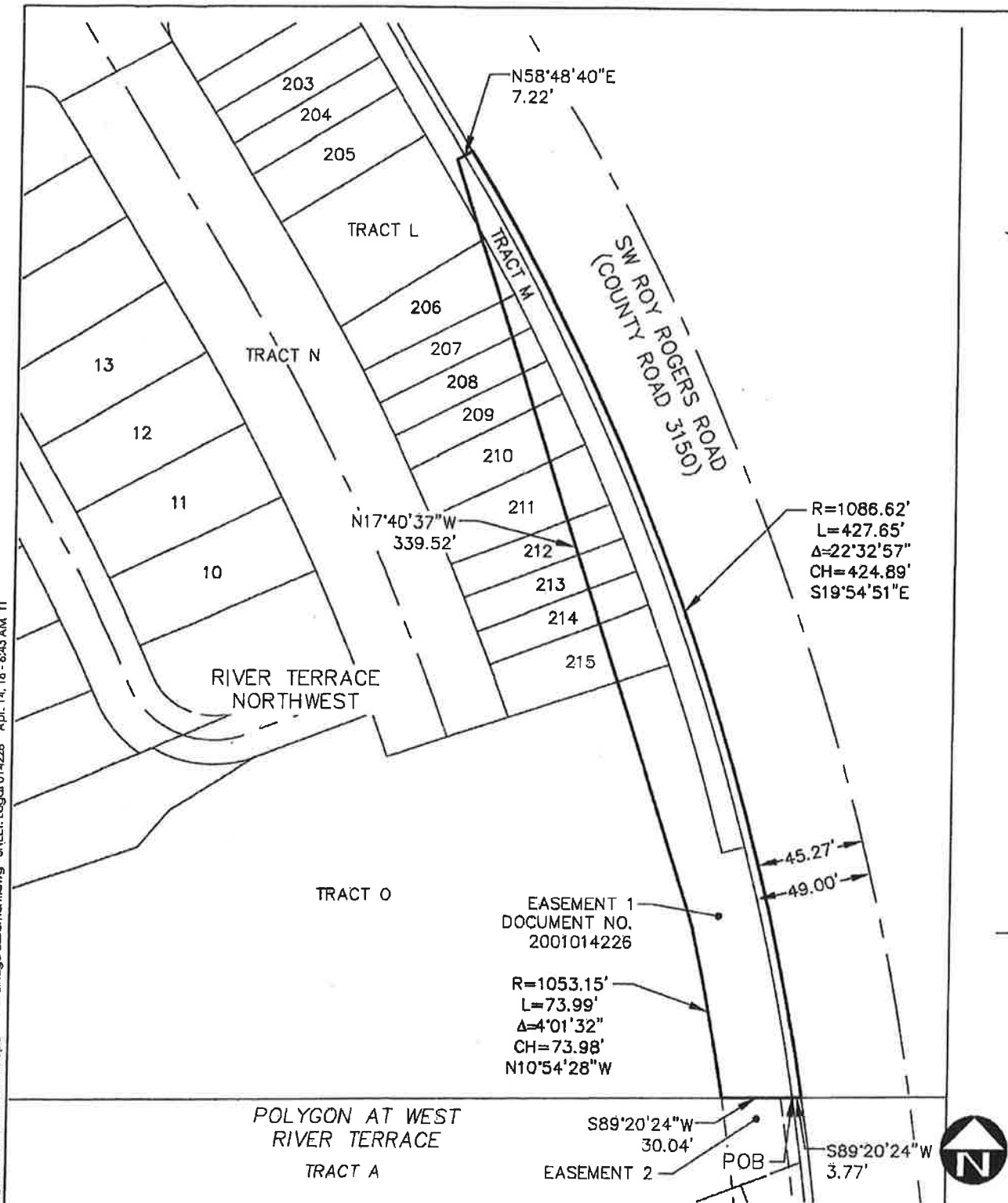


EXHIBIT B
VACATION OF PERMANENT SLOPE & DRAINAGE EASEMENTS

DRAWN BY: GPS DATE: 4/14/16
REVIEWED BY: TCJ DATE: 4/14/16
PROJECT NO.: 395-037
SCALE: 1"=60'

PAGE 3 OF 4



12564 SW Main St
Tigard, OR 97223
[T] 503-941-9484
[F] 503-941-9485

CITY OF TIGARD, OREGON
TIGARD CITY COUNCIL
RESOLUTION NO. 16-

A RESOLUTION CONCURRING WITH WASHINGTON COUNTY FINDINGS REGARDING VACATION OF PUBLIC SLOPE AND DRAINAGE EASEMENTS IN RIVER TERRACE NORTHWEST AND POLYGON AT WEST RIVER TERRACE

WHEREAS, Washington County Board of Commissioners Resolution and Order No. 16-118 (the Order) ordered the vacation of portions of public slope and drainage easements granted in Deed Document Nos. 2001014226 and 2001014228, more particularly described in the Order attached to this Resolution as Exhibit 1; and

WHEREAS, after receiving notice of the proposed vacation and prior to the County adoption of the Order, the City of Tigard reviewed the proposed vacation and concurs with the findings of the County; and

WHEREAS, ORS 386.361(3) provides that a county body may vacate property that is under the jurisdiction of the county and that is entirely within the limits of a city if the city concurs with the findings of the county.

NOW, THEREFORE, BE IT RESOLVED by the Tigard City Council that:

SECTION 1: Based upon the above findings which are incorporated herein by reference the City Council concurs with the findings of Washington County as specified in Washington County Board of Commissioners Resolution and Order 16-118.

SECTION 2: A copy of this Resolution shall be provided to the Washington County Surveyor's Office.

SECTION 3: This resolution is effective immediately upon passage.

PASSED: This _____ day of _____ 2016.

Mayor - City of Tigard

ATTEST:

City Recorder - City of Tigard